

EA-87-02



# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 312

DATE: Thursday, May 23, 1991

BEFORE:

A. KOVEN Chairman

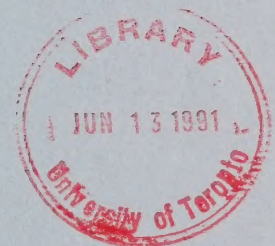
E. MARTEL Member

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# ENVIRONMENTAL ASSESSMENT BOARD

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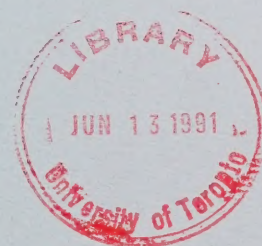
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of a Notice by The Honourable  
Jim Bradley, Minister of the Environment,  
requiring the Environmental Assessment  
Board to hold a hearing with respect to a  
Class Environmental Assessment (No.  
NR-AA-30) of an undertaking by the Ministry  
of Natural Resources for the activity of  
Timber Management on Crown Lands in  
Ontario.

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Hearing held at the Inn of the Woods Hotel,  
470 First Avenue South, Kenora, Ontario,  
on Thursday, May 23rd, 1991, commencing at  
9:00 a.m.

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VOLUME 312

BEFORE:

MRS. ANNE KOVEN  
MR. ELIE MARTEL

Chairman  
Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.	)	MINISTRY OF NATURAL
MS. C. BLASTORAH	)	RESOURCES
MS. K. MURPHY	)	
MR. B. CAMPBELL	)	
MS. J. SEABORN	)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE	)	
MR. R. TUER, Q.C.	)	
MR. R. COSMAN	)	ONTARIO FOREST INDUSTRY
MS. E. CRONK	)	ASSOCIATION
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MS. M. SWENARCHUK	)	FORESTS FOR TOMORROW
MR. R. LINDGREN	)	
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MR. D. COLBORNE	)	GRAND COUNCIL TREATY #3
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MR. D. MacDONALD		ONTARIO FEDERATION OF LABOUR





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MR. J. EBBS	)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY





APPEARANCES (Cont'd):

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MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

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I N D E X      O F      E X H I B I T S

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1850	Map entitled Indian Treaties and Purchase in the Province of Ontario, published by the Ministry of Natural Resources dated 1980.	55195
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1 ---Upon commencing at 9:15 a.m.

2 MADAM CHAIR: Good morning, Mr. Colborne.

3 MR. COLBORNE: Good morning, Madam

4 Chairman.

5 MADAM CHAIR: Are you ready to begin?

6 MR. COLBORNE: Yes, I am. I am very  
7 pleased finally to have the opportunity to present the  
8 evidence of my client. It has been a long wait for us.  
9 I know you have been extremely busy in the meantime  
10 hearing the evidence from other parties.

11 I hope that our preparations have given  
12 us an opportunity to present evidence which is very  
13 succinct, clear and conveys to you in an efficient way  
14 the concepts that Grand Council Treaty No. 3 would like  
15 you to be aware of and their basic attitude towards the  
16 issues before the Board.

17 I have my witnesses for Panel 1 here and  
18 we are ready to proceed, but I am also accompanied by  
19 Grand Chief Steve Fobester who is the elected head of  
20 the organization who I am representing and he would  
21 like to say just a few words of welcome before we begin  
22 the actual evidence.

23 MADAM CHAIR: Good morning, Chief  
24 Fobester.

25 CHIEF FOBESTER: I would like to welcome

1 the Board. I have never met any of you before, but it  
2 is gratifying to see sometimes the people we're dealing  
3 with and we often hear about in a back room or out  
4 there in our communities.

5                   However, I see some familiar faces around  
6 me here and we have a long history of talking in the  
7 past. I think the opportunity here is to revisit some  
8 of the discrepancies or the gaps that we have been  
9 unable to fulfill over the years, and I take it that we  
10 are in an appropriate forum to inform each other so  
11 that we can perhaps meet at a point where we all can  
12 agree at a certain point.

13                   We may have to lose some of our ways, we  
14 have to change in some other ways to makes thing better  
15 for our country in order no function in a peaceful  
16 manner.

17                   So I welcome this hearing and I hope  
18 today's deliberations and tomorrow, whatever the case  
19 may be, I hope that we at the end will reach a common  
20 understanding to all. I thank you very much.

21                   MADAM CHAIR: Thank you very much, Chief  
22 Fobester.

23                   MR. COLBORNE: Madam Chair, the Treaty 3  
24 chiefs are meeting in assembly today in a different  
25 place nearby so the Grand Chief can't stay with us, he



1 has other duties.

2 MADAM CHAIR: Shall we swear in your  
3 witnesses, Mr. Colborne.

4 MR. COLBORNE: Yes.

5 TIM E. HOLZKAMM,  
6 LEO G. WAISBERG, Sworn

7 MR. COLBORNE: I am going to be asking  
8 that these witnesses be qualified to give expert; that  
9 is, opinion evidence in certain areas. Their  
10 curriculum vitae have been filed. I wish to ask a few  
11 questions now simply to give you a less technical  
12 picture of who they are and what their expertise is.

13 Following that, I will ask you to  
14 determine that they are qualified to give expert  
15 evidence in a certain area which I will describe and I  
16 will begin by Mr. Waisberg --

17 MADAM CHAIR: Excuse me, Mr. Colborne,  
18 shall we make your witness statement an exhibit now?

19 MR. COLBORNE: Yes, please.

20 MADAM CHAIR: All right. The witness  
21 statement for Panel 1 will be Exhibit 1849.

22 Shall we make it A and B, Mr. Colborne?

23 MR. COLBORNE: Yes.

24 MADAM CHAIR: Exhibit 1849...

25 MR. COLBORNE: A would be the narrative

1 statement of evidence; B would be the database, yes,  
2 please.

3 MADAM CHAIR: Thank you.

4 ---EXHIBIT NO. 1849A: Panel 1 witness statement of  
Grand Council Treaty No. 3.

5 ---EXHIBIT NO. 1849B: Panel 1 database of Grand  
6 Council Treaty No. 1.

7 DIRECT EXAMINATION BY MR. COLBORNE:

8 Q. Mr. Waisberg, what is your  
9 profession?

10 MR. WAISBERG: A. I am an  
11 ethnohistorian.

12 Q. Explain to us please what an  
13 ethnohistorian is and what an ethnohistorian does?

14 A. Ethnohistory is a specialized field  
15 of anthropology and it's concerned with recovering the  
16 history of peoples who have not left written history in  
17 the European sense.

18 Q. For how long have you been practising  
19 as an ethnohistorian?

20 A. Since 1975.

21 Q. And what particular peoples have you  
22 studied?

23 A. The Ojibway.

24 Q. The practice or the profession of  
25 ethnohistory, what is its methodology; how do you do

1 the work that you do?

2 A. One examines the written historical  
3 records derived from European sources, the records of  
4 missionaries, government officials, exploring parties  
5 and so on and relates that to the ethnographic  
6 statements of Ojibway peoples, descriptions  
7 anthropologically of their society and culture.

8 Q. Could you expand on that to the  
9 extent necessary to explain a little about the  
10 methodology that you would have employed to produce the  
11 report which has now been filed as an exhibit?

12 A. Well, I examined the records of the  
13 Hudson's Bay Company, of other fur trading concerns, of  
14 various government departments, of missionary reports,  
15 and examined what is said about what those sources said  
16 about Ojibway society and culture and economy in  
17 relation to what early anthropologists found when they  
18 first visited the Ojibway.

19 Q. Did you mention anything other than  
20 examination of the records? Was there another source?

21 A. Yes. Another source was to interview  
22 in an ethnographic fashion the Ojibway elders of  
23 various communities within Treaty 3.

24 So it was a comparative approach. One  
25 compared the existing ethnographic statements from the



1 Ojibway elders with the earlier ethnographic statements  
2 from previous anthropologists and then related that to  
3 what early government and fur trade records said about  
4 those Ojibway peoples.

5 Q. Sir, did you come to the task of  
6 preparing this report, witness statement No. 1, cold?

7 Did you know nothing about the Ojibway  
8 people you were studying when you began the preparation  
9 of this report?

10 A. No. I have worked on examining the  
11 history and society of Ojibway peoples in relation to  
12 one of my main jobs of my practice which is to examine  
13 Ojibway land claims.

14 Q. You say that you have been an  
15 ethnohistorian since 1975, has that been your primary  
16 source of income?

17 A. Yes, it has.

18 Q. I look at your curriculum vitae and  
19 see that much of the work has involved the preparation  
20 of reports and scholarly papers; is that correct?

21 A. That's correct.

22 Q. And they are similar in general type  
23 to what we now have as Exhibit 1849A and B?

24 A. Yes, they are.

25 Q. Now, when you prepare papers of that

1 type, are they subject to review by what scholars or  
2 peers or are they subject to review and criticism by  
3 those who would like to show that they are incorrect in  
4 some way?

5 A. The papers that have been published  
6 are assessed independently by anonymous scholars as  
7 part of the normal review procedure for scholarly  
8 publications.

9 The reports that are prepared for various  
10 Ojibway First Nations that are related to the claims  
11 process are also assessed by scholars working in claims  
12 research departments of various governments.

13 Q. In the work that you do, what would  
14 happen if you produced a shoddy or a paper that had  
15 completely ignored a major area or which completely  
16 twisted a point of analysis or which was simply  
17 unbalanced or totally advocate? What would happen to  
18 you as an ethnohistorian?

19 A. If you were submitting a paper the  
20 editor would write you a stern note and ask you to do  
21 something better and reject your paper.

22 If you were submitting your report to a  
23 research department of a government which is  
24 responsible for assessing the validity of various  
25 Indian claims, they would reject it or they would

1        assess other information in a different fashion and  
2        also put forward new information which you might have  
3        missed.

4                        So these are extremely adversarial  
5        situations in many cases when you deal with the claims  
6        research departments of other governments.

7                        Q.    I would like to ask Mr. Holzmann a  
8        few questions.    Mr. Holzmann, you are presently in a  
9        Ph.D program.    At what stage are you at?

10                        MR. HOLZMAN:    A.    I am in the advanced  
11        phase.    I am working on my dissertation and qualifying  
12        questions for the Ph.D in anthropology.

13                        Q.    What is your field within  
14        anthropology?

15                        A.    I am an ethnohistorian.

16                        Q.    Sir, do you adopt what Mr. Waisberg  
17        said about what an ethnohistorian is and does?

18                        A.    Yes, it conforms.

19                        Q.    How long have you been an  
20        ethnohistorian?

21                        A.    For about 15 years.

22                        Q.    What particular peoples have you  
23        studied?

24                        A.    My Master's degree was done with the  
25        Dakota.    Since then I have done extensive research with



1 the Ojibway and with rural farm families.

2 Q. Tell me, sir, what is the methodology  
3 of ethnohistory?

4 A. It involves a very, very careful  
5 examination of written documents to get at the history  
6 of people who did not have a written language of their  
7 own and did not leave written documents behind.

8 So I deal with written documents in the  
9 historic -- in the European fashion, but they were not  
10 left by the Ojibway. They were left by others.

11 Q. Is there anything else that you gain  
12 information from other than this written historical  
13 record that you have referred to?

14 A. Yes, it is essential that I deal with  
15 the early ethnographies, much of which contains  
16 information that is important, is collaboration for the  
17 earlier written documents.

18 Q. Relating what you have just said to  
19 the report which has been filed as an exhibit and which  
20 you are a co-author of, what exactly did you do without  
21 getting into the fine detail in order to assemble the  
22 information which one finds in this report?

23 A. As any good researcher would do, I  
24 first examined the secondary literature on the topic;  
25 that is, the early ethnographies such as Frances

1 Densmore's research in the early part of this century,  
2 and then I went to the written documents with some  
3 background on Ojibway planned use to interpret what was  
4 being said. I also looked at collateral documents that  
5 dealt with Indian activities.

6 Q. I will ask you another question which  
7 is the same as the one I asked Mr. Waisberg.

8 Did you come to the research that  
9 resulted in this report cold, or did you have  
10 information from previous work?

11 A. No, I have been doing ethnohistoric  
12 and ethnographic research with the Ojibway and on  
13 Ojibway history for 15 years.

14 Q. Sir, are there many ethnohistorians  
15 with detailed familiarity about the Ojibways in this  
16 area, this general area of Ontario?

17 A. I can think of four at this time.  
18 Mr. Waisberg, myself and two other researchers who work  
19 with the Ministry of Natural Resources.

20 Q. You say you can think of four, are  
21 there more or...

22 A. If there are I'm not familiar with  
23 them. I have not had contact with them.

24 Q. Would you have?

25 A. I would not expect there are any.

1 MR. COLBORNE: Madam Chairman, those are  
2 the only questions I wish to ask. You've had an  
3 opportunity to look at the publication and  
4 qualifications of these witnesses.

5 I would like to now state to you the two  
6 areas of expertise which I would ask that these  
7 witnesses be qualified to give opinion evidence about  
8 and those are as follows: No. 1, the written  
9 historical record concerning the Ojibways in this  
10 region; and 2, Ojibway society and culture including  
11 economic patterns from contact with Europeans up to the  
12 present.

13 MADAM CHAIR: Are there any objections  
14 from the parties with respect to qualifying these  
15 witnesses as described by Mr. Colborne?

16 (no response)

17 That's fine. The witnesses shall be so  
18 qualified.

19 MR. COLBORNE: Thank you.

20 I will be addressing my questions to the  
21 witnesses as a panel and they themselves will be  
22 deciding who answers, but I hope that we are well  
23 enough organized so there won't be any confusion in  
24 that regard.

25 Q. My first question is --

1 MR. MARTEL: One moment, Mr. Colborne.

2 ---Discussion off the record

3 MADAM CHAIR: Sorry, Mr. Colborne, we are  
4 all sorted out.

5 MR. COLBORNE: Q. When white men first  
6 visited the Treaty 3 area and wrote about it, were  
7 there people who could be described as Ojibway living  
8 there?

9 MR. WAISBERG: A. Yes. When the first  
10 records were left by Sieur de La Verendrye in the 1730s  
11 he described several Bands resident in the region who  
12 spoke the Ojibway language.

13 Q. And based on your research within the  
14 Treaty 3 area, how would you describe the Ojibway  
15 economy at that time; that is, in the period of first  
16 contact between white people and Ojibways?

17 A. The Ojibway economy, looking at it  
18 from the time of first contact to basically the time of  
19 Treaty, was a diversified economy characterized by a  
20 dependence on a wide range of resources, both natural  
21 and grown.

22 There were changes in the economy over  
23 that period of time; for example, after about 1805  
24 agriculture become much more important, but when you  
25 look at the Ojibway economy generally over time one



1 sees this enormous diversification.

2 Q. Is there any ethnographic literature  
3 which describes Ojibway use of forest trees and plants?

4 MR. HOLZKAMM: A. Yes, there is  
5 extensive literature dealing with that topic. The  
6 preimminent study of interest here is by Frances  
7 Densmore.

8 This is a reprint of work that was done  
9 and published -- was done in the early part of the  
10 century. It was published in 1928 or '29 -- 1928, and  
11 it was based upon research -- based on part at least on  
12 research done within the Treaty No. 3 area, Manitou  
13 Rapids.

14 Q. And a list of plants in the book that  
15 you have just referred to is Appendix 1 to your report;  
16 is that correct?

17 A. Yes, that's correct. I should add  
18 that there is also as extensive array of other  
19 documents or other studies dealing with Ojibway uses of  
20 plants, what is called ethnobotany.

21 It was a very poplar form of study in the  
22 first half of this century, the use of plants by the  
23 Ojibway, and there were numerous studies of that use  
24 which collaborate Densmore's research.

25 Q. Have you examined those studies

1       yourself?

2                   A.   Yes, I have.

3                   Q.   To what extent is this information  
4       derived from or relevant to the Treaty 3 area?

5                   A.   The Treaty No. 3 area can be  
6       considered as belonging to anthropological  
7       classification of peoples; that is, the southwestern  
8       Chippewa or Ojibway. In the United States they are  
9       called Chippewa and in Ontario they are Ojibway.

10                  Q.   Mr. Holzmann, if you like, there is a  
11       map there if it would help to make this a little  
12       clearer.

13                  Madam Chairman, we will be saying more  
14       about the exact Treaty 3 areas. These witness are not  
15       here to tell us that, but it might help you relate to  
16       the geographic area we are talking about if I ask this  
17       witness to use this map which will be marked as an  
18       exhibit.

19                  MADAM CHAIR: All right. This will  
20       become Exhibit 1850.

21                  Excuse me, which map is this, Mr.  
22       Holzmann?

23                  MR. COLBORNE: Just read the title,  
24       please.

25                  MR. HOLZKAMM: Indian Treaties and

1 Purchase in the Province of Ontario.

2 MR. COLBORNE: Published by...

3 MR. HOLZKAMM: Well, it is adapted from a  
4 map compiled J.L. Morris dated 2 March, 1931. It is  
5 published by the Ministry of Natural Resources and has  
6 a date of 1980 on it.

7 MR. COLBORNE: Thank you.

8 ---EXHIBIT NO. 1850: Map entitled Indian Treaties and  
9 Purchase in the Province of  
10 Ontario, published by the  
Ministry of Natural Resources  
dated 1980.

11 MR. COLBORNE: Q. Go ahead, sir. You  
12 were telling us about -- you were referring to  
13 geographic areas, so please feel free to refer to that  
14 map.

15 MR. HOLZKAMM: A. The southwestern  
16 Chippewa would largely be -- well, have been defined by  
17 one of the authors of the Handbook of North American  
18 Indians, the northeastern volume, as inhabiting this  
19 part of northwestern Ontario, Minnesota, Wisconsin and  
20 Michigan, as well as parts of -- adjacent parts of  
21 Manitoba and North Dakota.

22 Within that region, which there is broad  
23 ecological similarities, there have been a large --  
24 very large number of these ethnobotanical studies.  
25 Those all relate to the Treaty No. 3 area.

1 I described in a sense the same  
2 ecological area, the same plants are present, the same  
3 group. They are more general studies, and as well  
4 Francis Densmore's work which I referred to before at  
5 Manitou Rapids.

6 Q. Very well. Just for clarity could  
7 you outline the Treaty 3 area on that map?

8 A. The Treaty portions within this map  
9 would conform to this region here marked AC.

10 Q. Thank you. What types of plants and  
11 trees were utilized by the Ojibways and let's start  
12 with food?

13 A. Okay. It's almost an endless list.  
14 As you mentioned, there is an extensive list in  
15 Appendix 1. I will refer to the most important ones.

16 Wild rice is perhaps the pre-eminent  
17 plant used for food, as well maple sugar from maple  
18 trees and birch sap from birch trees are important,  
19 fruits, nuts, berries and roots were significant in the  
20 diet.

21 In fact, to quote one elder from the  
22 Manitou Rapids Reserve: There was nothing that grew  
23 that they didn't use.

24 Q. Have you done any particular research  
25 or prepared any reports on this topic of wild plants



1 and trees used for food?

2 A. Yes, I have prepared several reports,  
3 as well I have worked with others that prepared other  
4 reports that dealt with that as part of the issue  
5 involved.

6 Q. Was this food that we were talking  
7 about an important part of the diet?

8 A. Traditionally it was a vital part of  
9 the Ojibway diet. Without going into great detail, at  
10 various times during their economic year they would  
11 rely heavily upon certain animal species. The addition  
12 of even small amounts, and they were harvesting large  
13 amounts of wild rice and storing it for future use, but  
14 even small amounts of that could have been extremely  
15 vital to their survival in giving them the necessary  
16 diet breadth to avoid nutrient deficiency.

17 Q. You mentioned the storage of wild  
18 rice for future use, was there other -- were there any  
19 types of food that were stored for future use?

20 A. Blueberries were dried over a fire  
21 and in the sun, roots were dried, maple sugar was  
22 evaporated and stored in birch bark muckucks for future  
23 use, service berries were dried.

24 There is an endless list. Almost any  
25 plant that could have been consumed. Frequently, even

1 berries and barks were dried and stored to be used for  
2 making tea, beverages.

3 Q. In the processes that we are talking  
4 about, particularly in reference to wild rice; that is,  
5 the harvesting and so on, were there forest products  
6 used to aid the process?

7 A. It could not have been completed  
8 without the use of forest products. If I can digress  
9 and describe some of the process of curing wild berries  
10 it might illustrate that.

11 Q. Yes.

12 A. Wild rice grows in lacustrine  
13 environments; that is, around lakeshores and rivers.  
14 It is harvested from canoes. Canoes were made from  
15 birch bark with cedar planking, watap, twine for sewing  
16 the fabric of the canoe and seal with pitch.

17 Paddles and poles made out of wood were  
18 used to propel the canoe, wooden sticks were used to  
19 beat the rice into the canoe. Once harvested, the rice  
20 was dried on sheets of birch bark as a preliminary  
21 perching over a wood fire or on a rack, a wooden rack  
22 covered with grassss and smoked.

23 It was pounded frequently to loosen the  
24 husks and a waginogan made out the wood and buried in  
25 the ground. People would check on the rice below and

1 the husks. It was tossed in a birch bark basket to  
2 loosen it. The concept of harvesting wild rice and  
3 processing it depended upon surrounding forest and it  
4 was stored in birch bark muckucks or baskets.

5 Q. Is there any evidence that the  
6 Ojibways practised management of the forest to maintain  
7 the resources; that is, the rice you have spoken of,  
8 the foods and the forest products used in the  
9 processing?

10 A. Yes, there is evidence from the  
11 Treaty No. 3 area describing the transplanting of wild  
12 rice to new locations to give new locations for  
13 harvesting. As well, there is evidence of deliberate  
14 burning of areas of forest around Lake of the Woods to  
15 promote blueberry growing.

16 The collaborating literature in North  
17 American ethnography is extensive on this topic. Since  
18 there are few researchers working specifically within  
19 the Treaty No. 3 area, we do not have as large a body  
20 of literature from this area as, say, from others where  
21 there is researchers actively working on that very  
22 topic.

23 Q. What are those other areas?

24 A. The northeast, Gordon Day's work  
25 there.

1 Q. Northeast of what?

2 A. The northeast cultural area, that  
3 includes the southwestern Chippewa in this region and  
4 extends as far as New York State and southeastern  
5 Ontario. I also would refer to the area of Alberta  
6 studied by Henry Lewis.

7 Q. Is the products that you mentioned;  
8 that is, the food and the forest products used to  
9 produce the food, did they have any commercial value?

10 A. Yes, they were frequently traded.  
11 Wild rice was an important -- well not was, it still is  
12 an important commercial item for the Ojibway. As well,  
13 birch bark and other items used in making food that I  
14 have brung forward were traded to fur traders and still  
15 to this day. Blueberry harvesting is an important  
16 activity, it was in the past and remains so today.

17 Q. And this trading, who was involved in  
18 the trading relationship we're talking about here?

19 A. At the beginning of our written  
20 history it would have been fur traders and  
21 missionaries, followed by government explorers and  
22 agents. As well, after the signing of Treaty there  
23 were lumbermen and retailers involved.

24 Q. Was supply over access of these  
25 products; that is, the food products, was it affected



1 by logging activities?

2 A. Yes, in my opinion, I would say so.

3 Q. In what way?

4 A. The cutting down of timber, of birch  
5 trees for example, would remove those from availability  
6 to the Ojibway. I have been told by some elders that  
7 it's difficult to find sheets of birch bark large  
8 enough to construct a canoe, and if you look at some of  
9 the pictures here, I believe there are wigwams and more  
10 domed shaped lodges that were covered with bark as  
11 shelter, protection.

12 These had to be fairly large sheets, they  
13 had to come from fairly mature trees. I am told that  
14 these are increasingly hard to find.

15 MR. COLBORNE: Madam Chairman, the  
16 witness has just referred to some photographs. We have  
17 a videotape which shows these photographs and which I  
18 will be asking you to look at and, at that time, it  
19 will be marked as an exhibit.

20 So if you don't mind, we will just  
21 progress now without having identified that particular  
22 photograph.

23 MR. HOLTZKAMM: Leo, I seem to recall you  
24 telling me at one point that an experiment or an  
25 attempt had been made to construct a canoe at the Lake

1 of the Woods cultural centre and had problems because  
2 they couldn't find sufficient canoe bark.

3 MR. WAISBERG: A. Yes. The original  
4 plan had been to construct a full-sized canoe. The  
5 plan had to be changed, however, as the elder found  
6 that it was impossible to locate birch bark trees of  
7 the appropriate sizes.

8 MR. COLBORNE: Q. I believe what we have  
9 been talking about to now would be what one would call  
10 food from naturally occurring plants?

11 MR. HOLTZKAMM: A. Okay.

12 Q. I want to now ask you some questions  
13 about agriculture. Did the Ojibway of the Treaty 3  
14 region practice agriculture.

15 MR. WAISBERG: A. Yes, they did practice  
16 agriculture. They began about 1805 and the practice of  
17 agriculture increased steadily throughout the 19th  
18 century.

19 Q. Have you conducted other research or  
20 presented scholarly papers on this topic?

21 A. Yes, I have, I've presented scholarly  
22 papers in 1989 and 1990 at the Amercian Society for  
23 Ethnohistory meetings.

24 Q. In what ways would Ojibway  
25 agriculture have affected the forest?

1                   A. Well, the Ojibway would clear land  
2 primarily by burning. Fire was one of their most  
3 important tools. The sizes of the traditional gardens  
4 varied from very small plots to about one and a half to  
5 two acres in size.

6                   Besides the process by which the land was  
7 cleared, since fertilizers were not used by the Ojibway  
8 except for the initial burning, the lands would decline  
9 in productivity over the years and new garden plots  
10 would have to be burned and prepared, leaving the older  
11 plots to revert to stages of growth of the forest  
12 again.

13                  Q. Were forest products used in the  
14 agricultural process, farming process?

15                  A. Yes, wooden hoes, wooden drying  
16 implements. On a handout that was given - I have it  
17 here - a handout that was given at the 1990  
18 Ethnohistory Conference it had a picture of a drying  
19 rack for corn as taken by a photographer in the region.

20                  Q. Was this agricultural activity  
21 affected by logging activities, or what was the  
22 relationship, if any, between the two?

23                  A. When logging began in a large fashion  
24 after the signing of Treaty 3 in 1873, the area of  
25 gardens increased dramatically on the Ojibway reserves

1 and the Ojibway were selling their surplus produce; in  
2 other words, the logging industry in its earlier stages  
3 provided an important market for Ojibway commercial  
4 production of crops.

5 This, however, was soon stopped by  
6 various events, including the impact of Indian affairs  
7 policies which adversely affected Ojibway interest in  
8 gardening and also by certain effects of dams that were  
9 built early on Lake of the Woods that had the effect of  
10 raising the water and flooding out very many of the  
11 prime agricultural lands that the Ojibways were using.

12 One Indian affairs inspector in about  
13 1888 who examined the situation following the  
14 construction of what was called the Rollerway Dam near  
15 the site of the Norman Dam in Kenora now, found that  
16 many of the gardens had been severely flooded. In fact  
17 he wrote that he could row his boat over them.

18 As well as the gardens themselves, there  
19 were other products associated with it. Wild hay was  
20 an important Ojibway crop as well, and these areas,  
21 like the rice, located in lacustrine edges of the  
22 environment were also adversely affected by that  
23 flooding.

24 So one could say that the early impact of  
25 the logging industry first intensified agriculture and



1 then contributed to its decline, contributed only  
2 because one mustn't lose sight of other factors.

3 Q. I want to ask now about hunting and  
4 trapping as economic activities of the Ojibway. Were  
5 these important economic activities?

6 MR. HOLTZKAMM: A. Yes, they were  
7 extremely important activities for the Treaty No. 3  
8 area Ojibway.

9 Q. Have you conducted any prior research  
10 or prepared scholarly reports on this topic?

11 A. Yes, I have assisted in the  
12 preparation of several reports which deal with this  
13 topic and, as well, I am currently involved in  
14 production of a paper on this topic with Mr. Waisberg.

15 Q. What big game animals were  
16 traditionally hunted by the Treaty 3 Ojibways?

17 A. The main species were moose, caribou,  
18 black bear, and I would include beaver, although it's  
19 also a furbearer its high fat content and caloric value  
20 also would lead me to classify that as a big game  
21 animal for purposes of food.

22 The white-tailed deer appears to be a  
23 fairly recent newcomer in the region. Except for a  
24 very isolated reference, they all date from about the  
25 1880s and 1890s. After that period they were also

1       hunted extensively by the Ojibway.

2                   Q.   Were forest products used in the  
3       hunting technology?

4                   A.   In the traditional hunting technology  
5       it was almost entirely derived from forest products.  
6       To use a specific example or two, bows and arrows were  
7       derived from forest products, excepting stone tips, the  
8       stone tips for the arrow, but the arrow shaft and the  
9       bow, the string were made from the forest, as well  
10      snares were made from vegetable twines found in the  
11      forest.

12                  Q.   Could traditional hunting have been  
13      carried out without these products that you've  
14      mentioned?

15                  A.   No, it could not have been carried  
16      out.

17                  Q.   What about the skins and the meat  
18      from these big game animals that you've mentioned?  
19      Well, let's just talk about the skins for a moment;  
20      were they used?

21                  A.   Skins were used traditionally for  
22      clothing, as well for making containers, and they went  
23      beyond just using the skins to use other parts. The  
24      bones of the animals were used for processing the skins  
25      and the sinews were used for thread to sew clothing.

1 Q. What about trade, was any of this  
2 animal product traded?

3 A. The skins were an important trade  
4 item with the fur traders, as well the meat was an  
5 exceptionally important part of trade to fur traders  
6 and missionaries during the earlier period.

7 After Treaty there is an extensive trade  
8 in meat with lumbering camps and to other development  
9 activities. It was sold in Kenora here.

10 Q. What about management of the forest  
11 cover to maintain favourable habitat for these game  
12 animals; is there any evidence in the historical  
13 literature that you've examined about that?

14 A. Yes, there is a considerable amount  
15 of study that's been in the ethnograph -- published  
16 ethnographic and ethnohistoric literature dealing with  
17 North America.

18 We do have an example from within the  
19 Treaty No. 3 area of the a specific example where the  
20 forest cover was burned around Lake of the Woods to  
21 promote blueberry growth which also attracted black  
22 bears which would be hunted, and that was in big  
23 species - shoe and the canoe - dated from the 1820s.

24 Q. What about changes in the populations  
25 of the big game animals which you have mentioned, what

1 is the evidence in the historical literature about  
2 that?

3 A. Looking at the fur trade documents  
4 since 1800 we find continued references to Indians  
5 killing and trading. Because these are the records of  
6 fur traders, we most often have accounts where the  
7 Indians brought in the skins or meat of game animals to  
8 trade.

9 Those continue throughout the fur trade  
10 period, so these animals were present in the period  
11 throughout -- or throughout that period in the area.

12 It's difficult to make an absolute  
13 statement about their relative abundance except for the  
14 fact that they were being hunted and traded which  
15 indicates a present population of some size.

16 After Treaty we have a more abundant  
17 literature and game animals are seen as quite abundant.  
18 There are a lot of moose, caribou are frequently  
19 referred to, as a matter of fact we have in the Linde  
20 video I believe a picture of a caribou swimming on Lake  
21 of the Woods from within this century.

22 It does appear that there was a decline  
23 in the relative proportions of deer and caribou within  
24 the Treaty No. 3 region after signing of Treaty, and  
25 collateral documents that I have looked at tend to



1 suggest or indicate that there is a degree of  
2 incompatibility between white-tailed deer and caribou,  
3 that where you find the one you cannot find large  
4 populations of the other.

5 Q. In the literature -- no, go on,  
6 sorry.

7 A. The advent of the white-tailed deer  
8 in this region and its relative abundance appear tied  
9 to forestry practices.

10 Q. Okay. Tell me more about that.

11 A. White-tailed deer are a creature of  
12 forest edges, they require open patches, large amounts  
13 of browse. Clearings created by logging; that is  
14 removal of the trees, tend to sprout up -- well, as  
15 they regrow, the shubbery is low, it's good browse for  
16 the deer; as those areas were logged, deer entered this  
17 area.

18 It appears that the deer, the  
19 white-tailed deer that is or Virginia deer as it's  
20 sometimes called, is host to a meningile brain worm, it  
21 appears to give only minimal dissatisfaction to  
22 white-tailed deer, they're perfectly able to function  
23 with this worm in their brain, however, caribou find it  
24 fatal, they cannot tolerate that, and the white-tailed  
25 deer is a host for this brain worm. As they entered

1 the area they introduced a parasite that is fatal to  
2 caribou.

3 Q. Is there anything else in the  
4 literature that would tell us anything about the  
5 effect, if any, of logging activities upon populations  
6 of big game animals during the historical period?

7 A. Yes. There is other evidence of  
8 population swings in animals relating to logging.  
9 Certainly there's collateral literature which deals  
10 with the benefits or disadvantages of forestry to  
11 certain wildlife species.

12 For example, white-tailed grouse are said  
13 to benefit from relatively small forest cuttings;  
14 fairly large cuttings are dangerous to them.

15 This crops up in a number of the  
16 Department of Indian Affairs records as well. H.J.  
17 Burrie, a timber supervisor, recommended posting a  
18 notice in the Treaty No. 3 area which described the  
19 forest as essential as shelter for animals.

20 So you need a mix. If you do not have  
21 shelter, that is tall trees within a certain region,  
22 big game animals and other species such as ruffed  
23 grouse may suffer from exposure.

24 MR. FREIDIN: I just wonder if I could  
25 interrupt.

1                   Mr. Colborne, you asked the witness a  
2 question about a situation during the historical  
3 period. Could you just have the witness explain what  
4 that period is?

5                   MR. COLBORNE: Yes.

6                   Q. In your answers, witnesses, what  
7 period are you referring to or what period should we  
8 exclude in terms of a calendar?

9                   MR. HOLTZKAMM: A. I believe the dates  
10 we used in our database collections were from 1800 to  
11 1850 -- or to 1950 - excuse me, slip of the tongue -  
12 1800 to 1950.

13                   Certainly we have included professional  
14 journal articles that date from after that period, but  
15 these are dealing with historic facts -- or relative to  
16 historic facts occurring during that period.

17                   MR. WAISBERG: A. And if you're dealing  
18 with the impact of organized non-native logging  
19 industry in the region, you really have to look at the  
20 period after Treaty of course.

21                   Q. But am I right that you're saying  
22 after Treaty but before 1950?

23                   A. (nodding affirmatively)

24                   MR. FREIDIN: Thank you.

25                   MR. COLBORNE: Q. Mr. Holtzkamm, I think

1       you were just referring to I think perhaps ruffed  
2       grouse.

3                       MR. HOLTZKAMM:   A.   Mm-hmm.

4                       Q.   Which is a smaller species.

5                       A.   That is correct.

6                       Q.   Were there smaller game species that  
7       the Ojibways used for food in the historical period?

8                       A.   Yes, there were a number of these  
9       species.   Ruffed grouse I mentioned, snow-shoe hares  
10      were particular -- were and are particularly important.

11                      Q.   And were forest products used in  
12      capturing those smaller species?

13                      A.   Yes, particularly in the traditional  
14      economic period when the use of twine from forest trees  
15      and plants was important in snaring snow-shoe rabbits.

16                      Q.   Just using rabbits as an example,  
17      what parts of the animal, after having been harvested,  
18      were used in the traditional economy?

19                      A.   The skins from the rabbit were cut  
20      into strips and woven into blankets, the meat was  
21      consumed, and a number of the internal organs such as  
22      liver, the heart, kidneys were also used, and this  
23      varies with individual preference, how much of those  
24      internal organs are used.

25                      Q.   Was there trade in any of the

1 products from the smaller animals?

2 A. Snow-shoe rabbits were traded on  
3 occasion to fur traders. If you're including in the  
4 smaller animals the furbearing animals, it was  
5 extremely important, they were extremely important as a  
6 trade item, and if you will refer to -- or I will refer  
7 to figures -- well, figures 2 through 7 deal with the  
8 relative returns; that is, the furs traded in the Lac  
9 la Pluie District.

10 Q. That's between pages 47 --

11 A. Facing page 48, 47 and 48.

12 Q. And 48, yes.

13 A. They give some -- an indication of  
14 the number of furs that were traded in particular years  
15 within the Lac la Pluie District and included Fort  
16 Frances and Kenora, it does not include Lac Seul to the  
17 north which was a separate district.

18 I should also point out that these  
19 returns would not have included those furs that were  
20 used by the Indians themselves for their own use, only  
21 those traded.

22 Q. In the historical period and  
23 according to the literature that you have examined, did  
24 logging activities have any effect on these smaller  
25 animals?



1                   A. In my opinion logging activities  
2 would have an effect upon these animals generally. We  
3 do have a few specific instances from neighbouring  
4 regions where logging activities were critical in  
5 reducing the populations of some animals.

6                   Marten, for example, are dependent upon  
7 old growth forests for part of their life cycle; that  
8 is, they have to have access to fairly old large trees,  
9 particularly conifers that are important for lumber  
10 industry.

11                  Q. Has this question been studied  
12 extensively or is there any extensive literature on it  
13 in the area that we are referring to; that is, the  
14 Treaty 3 area?

15                  A. There's not an extensive literature  
16 specifically pertaining to the Treaty No. 3 area.  
17 There is -- I've seen one article which referred to  
18 marten in northern Ontario being affected by logging  
19 within the last few years. The article came out within  
20 the last few years. I should point out --

21                  Q. So that is not within the historical  
22 time that we're talking about, that is a more recent  
23 study?

24                  A. The article refers to processes that  
25 would have been historical.

1 Q. I would like to ask some questions  
2 about fishing. Was fishing an important traditional  
3 activity of the Treaty 3 Ojibways?

4 MR. WAISBERG: A. It was extremely  
5 important to Ojibway subsistence and commercial  
6 activity.

7 Q. And have you conducted other research  
8 or published scholarly papers dealing with this topic?

9 A. Yes. I have brought a reprint of a  
10 paper of which I am co-author of on the sturgeon  
11 fishery in the Rainy River which deals with the Ojibway  
12 traditional use of the sturgeon and the collapse of  
13 that resource.

14 Q. Where was it published, sir?

15 A. It was published originally in the  
16 Canadian Geographer, it is now in the process of being  
17 republished by the University of Manitoba press in a  
18 volume entitled: Aboriginal Resource Use in Canada,  
19 Legal and Historical Aspects.

20 Q. What were the most important fish  
21 species used by the Treaty 3 Ojibways.

22 A. The Treaty 3 Ojibways used many fish  
23 species; pike, walleye, white fish was important, but  
24 by far the most important fish was the lake sturgeon.  
25 It was extremely important to the subsistence and the

1 commerce of the Treaty 3 Ojibway, especially prior to  
2 Treaty. It was constantly referred to by visiting  
3 government officials and especially by the fur traders  
4 who conducted trade in a byproduct of the Ojibway  
5 fishery sturgeon.

6 Q. What was that byproduct?

7 A. The byproduct was a substance called  
8 Isinglass derived from the sound or bladder of the  
9 sturgeon and I believe that we have in Figure 8 facing  
10 page 48 records of the returns of the Hudson's Bay  
11 Company in the Lac la Pluie District. Lac la Pluie is  
12 now Fort Frances.

13 Q. What's the significance of this  
14 Isinglass data in terms of the importance of sturgeon  
15 as a food source?

16 A. It allows us to look at a record kept  
17 by a non-governmental agency prior to the time of  
18 records of fish catches during the 19th century before  
19 Treaty. As far as I'm aware it's one of the few  
20 places, if anywhere, one can attempt to quantify the  
21 Ojibway harvest of fish.

22 Q. So how do you go about doing that?

23 A. One derives the total weight of  
24 sturgeon based upon the amount of Isinglass that was  
25 traded.

1                   MADAM CHAIR: Excuse me. Could you  
2 please spell Isinglass for the court reporter?

3                   MR. WAISBERG: I-s-i-n-g-l-a-s-s.

4                   MR. COLBORNE: Q. And when you do that  
5 calculation, what do you find out?

6                   A. One finds that the Ojibway were able  
7 to harvest sturgeon relatively continuously and at high  
8 levels throughout the 19th century, which is somewhat  
9 at variance with the post-Treaty evidence from that  
10 same fishery where the results of the initial  
11 harvesting after the 1880s when the fishery was opened  
12 to non-Indian commercial fisheries, the production  
13 increased dramatically and then the resource basically  
14 collapsed due to over fishing.

15                   That same pattern was commented upon by  
16 federal fisheries biologists in their published reports  
17 in the sessional papers of the Department of Fisheries.

18                   Q. Do you have any figures in pounds or  
19 tonnes or kilograms about the amount of fish taken,  
20 firstly, in the traditional Ojibway fishery that you  
21 have been able to quantify through study of the  
22 isinglass records compared with the amount of fish  
23 taken by the non-Indian commercial fishery which you  
24 have mentioned?

25                   Let's just start with the first period,

1 the traditional Ojibway fishery, what quantity of  
2 sturgeon are we talking about on, say, an annual basis?

3 A. We are talking about 400,00 pounds  
4 more or less as a maximum to about 200,000 pounds per  
5 year.

6 MR. HOLZKAMM: A. Of dressed fish.

7 MR. WAISBERG: A. Of dressed fish.

8 Q. That's the poundage of fish that it  
9 would take to produce the isinglass which the fur  
10 company records show they purchased from Indians? Is  
11 that the way it works?

12 A. That's true. Of course, it would  
13 represent a minimum number because some isinglass had  
14 uses within the traditional domestic economy of the  
15 Ojibway, such as glues, for example.

16 Q. Was it easy to take isinglass out of  
17 the fish and sell it to the fur trade post or was it a  
18 complicated process?

19 A. The sounds had to be dried relatively  
20 carefully. The interesting thing about the deriving  
21 production figures or estimates from the Hudson's Bay  
22 Company records is that it tends to corroborate the  
23 qualitative assessments that appear constantly in the  
24 ethnohistoric literature.

25 Many fur traders especially and



1 missionaries commented continually about the tremendous  
2 abundance of sturgeon, especially during the annual  
3 spring spawning runs on the Rainy River which was the  
4 major population area of the sturgeon at that time.

5               So you have these qualitative assessments  
6 that appear by nearly everyone who left a written  
7 record and travelled through the region and, of course,  
8 the Hudson's Bay Company was extremely interested in  
9 this. Not in this sturgeon production, not just  
10 because of the isinglass trade but because they also  
11 purchased the meat to feed themselves.

12              It was an important subsistence resource  
13 to both Indian and -- to purchase, and non-Indian alike  
14 at the time. The isinglass data gives us some method  
15 of approaching quantities.

16              Q. Okay. So that's the 200,000 to  
17 400,000 pounds per year that you mentioned?

18              A. Yes.

19              Q. If we go forward to the post-Treaty  
20 period when the non-Indian commercial fishery was  
21 carried out, how many pounds per year are we talking  
22 about?

23              A. To give you an example, in 1895 the  
24 Canadian industry on the Canadian side of Lake of the  
25 Woods produced 715,950 pounds of dressed sturgeon meat

1 with an additional harvest of 65,800 pounds of caviar  
2 and air bladders for isinglass. Now that's just the  
3 Canadian harvest.

4 When you add that to the American records  
5 for the harvest on the American side of Lake of the  
6 Woods, you come up with rather more significant  
7 harvest. The annual harvest rates for sturgeon over  
8 the period 1895 to 1899 averaged over one million  
9 pounds of dressed fish per year when you take both the  
10 American and the Canadians statistics.

11 Q. How long did that high level of  
12 harvesting last?

13 A. It dropped off extremely sharply  
14 after 1900.

15 Q. Down to what?

16 A. During the period 1900 to 1904 it  
17 dropped below 200,000 pounds and continued to drop with  
18 some fluctuations until by 1915 it was well under  
19 50,000 pounds per year.

20 Q. What has happened since then?

21 A. The commercial fishing companies  
22 moved to other resources: walleye, white fish, and  
23 since that time the Ojibway who were complaining about  
24 the decline of the sturgeon at the time have very  
25 little access to sturgeon as does anyone else.

1                   The fishery basically collapses after  
2   1900 and it has not restored itself even though the  
3   large commercial fishery that were taking so much  
4   sturgeon have gone out of business and were not  
5   catching sturgeon.

6                   Q.   Why has it not restored itself?

7                   A.   One of the reasons sometimes cited is  
8   that the prime spawning ground of that Lake of the  
9   Woods sturgeon, the Rainy River, was adversely effected  
10   by population from the construction of the pulp and  
11   paper mill in Fort Frances after 1907.

12                  There were numerous complaints from the  
13   Indians who lived in reserves along the river of the  
14   water quality being such that they could not fish or  
15   even drink the water.

16                  So although the harvest of sturgeon ended  
17   with the collapse of the fishery and, therefore, the  
18   fishery was under no further production pressure from  
19   commercial operations, the population of the sturgeon  
20   itself has not recovered.

21                  Q.   And never has to this day?

22                  A.   Never has to this day.   Apparently  
23   the Band at Manitou Rapids, which is one of the prime  
24   fishing sites during the period prior to Treaty where  
25   these astonishing amounts of sturgeon are recorded by

1 the records of the Hudson's Bay Company between 200-  
2 and 400,00 pounds a year, that Band located at Manitou  
3 Rapids in 1987 had a sturgeon quota of only about 2,100  
4 pounds.

5 Q. Now, if you were to put on a graph of  
6 the same type as the figures in your report; that is,  
7 pounds on the vertical axis and years on the horizontal  
8 axis, what would the line look like up to the Treaty  
9 for sturgeon production by the Ojibways?

10 Does Figure 8 give us -- well, I won't...

11 A. We did such a figure for the  
12 published version of the sturgeon paper and we find  
13 then that from the time when the Hudson's Bay Company  
14 first began to keep records after 1821 of this product  
15 isinglass from which we are deriving the pre-Treaty  
16 figures, we find that with some variations each year it  
17 is basically at a level between 200- and 400,000  
18 pounds.

19 Then in the period from 1890 after the  
20 time of the Treaty and after the time when those large  
21 commercial fishing operations have begun their  
22 operations on Lake of the Woods, the harvest taken from  
23 government records, Department of Marine and Fisheries  
24 which gave the fish statistics, jumped up like this  
25 and then several years after the line went down.



1 Q. And stayed down?

2 A. Down sharply. And stayed down.

3 Q. Would it have been possible for  
4 Ojibways to survive during that period of time when  
5 they were harvesting a constant -- or relatively  
6 constant amount of fish and using it?

7 Would it have been possible for them to  
8 survive without that fish?

9 A. The fur traders thought not. They  
10 thought of sturgeon as one of the important Ojibway  
11 resources and continually refer to it.

12 During the spawning period when the  
13 sturgeon were most easy to capture on the Rainy River,  
14 many Ojibways from areas outside -- or from Lake of the  
15 Woods and from Rainy Lake congregated at the fishing  
16 station on the Rainy River and there were instances  
17 prior to Treaty where the population there was up to  
18 1,500 which is relatively remarkable considering that  
19 the total population of the region at that period of  
20 time according to the fur trade records was somewhere  
21 between 1,500 and 2,600 people.

22 Q. So practically the entire population  
23 of the territory would collect in one small area for  
24 fish?

25 A. Yes. The numbers of course are



1 variable and they were counted by people who were not  
2 trained to count numbers, but they varied from up to  
3 several hundred up to 1,500 during the 1850s.

4 So sturgeon as well as other fish were  
5 extremely important to the Ojibway and they processed  
6 the meat for storage as well as for instant  
7 consumption.

8 Q. Were forest products used in the  
9 capturing of fish and the storage and so on?

10 A. Yes. The Ojibways would capture fish  
11 through various means, through spears, through wiers  
12 which are a sort of dam or impoundment placed on or  
13 near a rapid from which they could spear or catch the  
14 fish.

15 Then, of course, the fish would be  
16 processed and dried, hung up on racks. I believe we  
17 have a picture of some fish drying on racks and smoked  
18 as well. To store the finished product, it could be  
19 stored in birch bark containers as well as the skin of  
20 the fish.

21 Q. Could the traditional fishing  
22 practices that you have been referring to, could they  
23 have been carried out without the forest products?

24 A. No. Like most aspects of traditional  
25 Ojibway economy and technology, the forest was the

1 prime source of raw materials.

2 So, for example, in traditional gill nets  
3 which were made out of native fibers, basswood fibers  
4 and other fibers, one of the early fur traders noted in  
5 the place of cork, which was used to float the top of  
6 the net, the Ojibway used cedar. That was Peter Grant  
7 writing about 1804 talking about the Fort Frances area.

8 Q. I would like to now ask a few  
9 questions about forest product use for industries and  
10 crafts.

11 MR. HOLZKAMM: A. Can I interrupt here a  
12 second, Don?

13 Q. Certainly.

14 A. Something has occurred to me in  
15 response to the previous question you had asked me.

16 My mind was preoccupied with studies and  
17 I should have included this because it is based on  
18 information that's been told to me but not as part of  
19 an organized activity of gathering that information.

20 You were wondering about the effect of  
21 logging on animal species. I have been told  
22 frequently, and this is by Ojibway elders in the Treaty  
23 No. 3 area, that logging activities have effected their  
24 traplines and hunting activities, that the animals  
25 disappear or are reduced after an area has been logged.

1 Q. Thank you.

2 A. I apologize for my omission. My mind  
3 was on organized studies rather than the accumulation I  
4 acquired over time, but not organized in that fashion.

5 Q. Let me just ask you. When that  
6 information came to your attention, were you practising  
7 as an ethnohistorian or just is this just casual  
8 conversation you are talking about?

9 A. I was conducting research at the Lac  
10 Le Croix reserve in the first instance about 1979, but  
11 it hadn't occurred to me at this time because my  
12 primary purpose for research was dealing with Ojibway  
13 migrations through boundary water areas; that is,  
14 movements of people, and this was a topic that came up  
15 and the elders frequently wanted to discuss this as  
16 opposed to my agenda.

17 Q. Is it part of what you are trained to  
18 do, to receive information from non-literate informants  
19 and process and apply that information as it applies to  
20 their cultures and societies?

21 A. I am an anthropologist and  
22 ethnography; that is, the activity you have just been  
23 describing, the obtaining of this information is a part  
24 of that discipline.

25 Q. How do you know when it is good

1 information as opposed to bad information?

2 A. There are various tests that can be  
3 applied. One, of course, and I think there are many  
4 similarities with other disciplines, is the information  
5 consistent throughout. Does this information seem to  
6 hold together. That's one test that would be applied.

7 Two, is it supported by other information  
8 I receive; in other words, do I hear this from more  
9 than one source.

10 Three, is there any outside information  
11 in the published literature; for example, the  
12 ethnographies are a good source for that which support  
13 this.

14 Q. Let's just apply those three points  
15 to the information that you have told me was given to  
16 you by elders that has to do with, if I understand you  
17 correctly, the decline of fur bearing populations  
18 following logging.

19 A. Yes.

20 Q. Did you do any follow-up or testing  
21 of the reliability of that information according to any  
22 of those three methods that you have described?

23 A. Yes. At the time I obtained  
24 information from other elders on that topic. It was  
25 mentioned to me by more than one individual and I don't

1 have my research notes in front of me on that so I  
2 can't give you an exact number, but I believe it was  
3 two and may have been three elders that were my major  
4 informants in the community at the time.

5 It was consistent with what I would  
6 have -- or with what I read in the other literature.  
7 Since that time, bearing in mind that we think about  
8 various of these things and retain it, I have had that  
9 confirmed to me in other conversations with elders.

10 Q. And given the training you have had  
11 and the specialization that you exercise, do you  
12 consider that to be reliable information?

13 A. I believe they were explaining what  
14 they had observed.

15 Q. And you have used the term elders, is  
16 that a term of art for an ethnohistorian or is that  
17 something that a layperson -- is that the same use of  
18 the term that a layperson would have?

19 A. It is Ojibway usage which describes  
20 people who are respected for their accumulation of  
21 knowledge and their ability.

22 So this is not a loose term that if you  
23 just arrive -- manage to live to a certain age that  
24 would be something that was necessarily considered.  
25 It's somewhat flexible, but carries connotations of



1 knowledge and ability and wisdom.

2 Q. Thank you. We have digressed a  
3 little bit.

4 A. Yes, and I apologize.

5 Q. I think that was useful. Thank you,  
6 Mr. Holzkamm.

7 I would like to return now to this  
8 question of the use of forest resources by the Ojibways  
9 for traditional industries and crafts. Is that part of  
10 the traditional Ojibway economy?

11 A. Yes, it was definitely part of the  
12 traditional Ojibway economy and a major part of it.

13 Q. Give me some examples?

14 A. Almost every aspect of traditional  
15 Ojibway life that you could refer to or conceive of  
16 involved some use of the forest industry -- or forest  
17 products as crafts.

18 From early childhood, for example, a  
19 child would be carried in a tikinagan, a cradle board,  
20 with a wood back and a bow around it to protect his  
21 head, both made from wood. It would have a covering on  
22 the outside to hold him in place.

23 In a traditional period it would have  
24 been leather, perhaps more recently blanket embroidered  
25 with floral motifs. Traditionally sphagnum moss from

1 the forest was used as a diaper, perhaps the original  
2 disposable diaper, and was regarded as superior to the  
3 present day products in that it didn't cause rashes.

4 MR. WAISBERG: A. And it was  
5 biodegradeable.

6 MR. HOLZKAMM: A. And it was  
7 biodegradeable.

8 That continued throughout live. Any time  
9 an individual wanted to travel in the summertime he did  
10 so by canoe made from forest products. Food was cooked  
11 every day over a wood fire. He lived in a lodge made  
12 from forest products, covered with birch bark, framed  
13 with saplinga and fastened with vegetal twine. I could  
14 go on and on.

15 Q. Was there a trade in any of the  
16 things that you have mentioned, the birch bark twine,  
17 the products made from them, the canoes, this type of  
18 thing?

19 A. Yes. The trading of canoes was  
20 particularly important. The returns of the Hudson's  
21 Bay Company where they detail for particular years,  
22 they are not always consistent in what they refer to,  
23 but where they do go into detail forest products are a  
24 major item.

25 Twine, not so much; however, they did use

1 split spruce ruts. Watap was an important trade item  
2 for canoe manufacturing and repairs.

3 Q. Is there any information in the  
4 literature about how many canoes were sold by the  
5 Ojibways to the fur trading companies, how much was  
6 paid, how valuable they were, the process of  
7 constructing them, how early the orders had to go in,  
8 this type of thing?

9 Was it a big industry or what?

10 A. Yes. Again, this varied with the  
11 interest of individual traders. In the early part of  
12 the 19th century about -- I can give you the exact date  
13 here in a second. It should be right at the beginning.  
14 Here we go.

15 In 1800, the Northwest Company, Alexander  
16 Henry, passed through the boundary waters; that is,  
17 along what is the international boundary today, and  
18 listed the different camps of Ojibway along the route  
19 who were making canoes and selling them.

20 As he came into the Treaty No. 3 area,  
21 Lake Saganaga, he found Indians making canoes for sale  
22 but he didn't like any of those particular ones. He  
23 went on to Basswood Lake and found a band of Indians  
24 making canoes. By that time his had deteriorated so  
25 much that he had to wait for a new one and it was

1 completed by ten o'clock of the following day -- two  
2 days later, excuse me -- no, about a week later, excuse  
3 me. I am going from dates here.

4 He paid 60 skins for made beaver for that  
5 canoe which was a sizable investment. It was the  
6 equivalent in trade consideration of that time as a  
7 value of 60 beaver furs. So he traded and this was a  
8 significant price.

9 He also went on to Nomikong Lake and he  
10 found other Indians making them there, as well as Lake  
11 of the Woods and Rat Portage.

12 MR. WAISBERG: A. If I can just make a  
13 point of that price, the 60 made beaver represented.  
14 Very often the product of a winter's fur hunt would not  
15 equal 60 made beaver. So the return on this method of  
16 employment and trade was quite considerable for an  
17 individual Ojibway family.

18 MR. HOLZKAMM: A. I would further add to  
19 that by pointing out that these activities could be  
20 conducted in what would perhaps otherwise have been a  
21 slack period when the furs were not prime, there  
22 couldn't be trapping furs for trade and you would  
23 gather in camps to collect and harvest sturgeon.

24 So it was compatible with other  
25 activities that could be carried on at the same time as

1 you were doing these things. Of course, if you  
2 couldn't sell the canoe you could always use it for  
3 your own use. So inventory carry-over was not a big  
4 problem.

5 In further response to your question, it  
6 is important to consider also the fact that making a  
7 canoe involved considerable advanced planning. You  
8 could not just march out into the woods at any time,  
9 gather the raw materials and produce a canoe.

10 You had to begin preliminary activities  
11 for gathering the pitch you used to seal the seams of  
12 the canoe about a year ahead. Birch bark is only  
13 strippable; that is, it comes off the tree easily in  
14 large chunks for a brief period in the spring and early  
15 summer of the year, otherwise you are likely to damage  
16 it in removing it.

17 Roots had to be gathered no sew the skin,  
18 you have to process the planking ahead of time to have  
19 it ready so you can bend the ribs and insert it between  
20 the bark and the ribs, the planking itself. So it  
21 required, again, considerable advanced planning.

22 I would further go on to suggest that  
23 because this planning was required at least a year  
24 ahead you had to begin preparations, cutting operations  
25 of timber moving through the region could easily damage



1 or remove the spruce trees that people had begun  
2 preparations for tapping at an earlier period.

3 As well, the larger birch that you  
4 anticipated and planned to utilize might have been  
5 removed. So your entire plans and strategy for a  
6 seasonal could be disrupted very easily by a cutting  
7 operation, timber cutting operation.

8 MADAM CHAIR: Mr. Colborne, I don't like  
9 to interrupt. Normally we take a break around 10:30.

10 You have been very cooperative, I  
11 understand, in allowing another person to come in and  
12 speak to the Board around eleven o'clock. Thank you  
13 very much.

14 Would you like your witnesses to have  
15 their break now or would you want to continue until  
16 eleven?

17 MR. COLBORNE: I would think that it is a  
18 suitable place to break, and if I am not mistaken the  
19 presentation from the other party will take about one  
20 half hour to one hour, is that the understanding?

21 MADAM CHAIR: I think Mr. Pascoe's  
22 information is that it will not take any more than half  
23 an hour.

24 MR. COLBORNE: I see. So that would be  
25 convenient. Does that mean that we should probably be

1 prepared to resume around 11:30?

2 MADAM CHAIR: Yes. Is that convenient?

3 MR. COLBORNE: That is convenient.

4 MADAM CHAIR: We thank you for this  
5 disruption. We will be back around eleven o'clock and  
6 we will resume hearing this evidence around 11:30.

7 MR. COLBORNE: Thank you.

8 MADAM CHAIR: Thank you.

9 ---Recess taken at 10:40 a.m.

10 ---On resuming at 11:05 a.m.

11 MADAM CHAIR: Hello, Mr. Hook.

12 MR. HOOK: Mr. Chairman, Madam Chairman.

13 JIM HOOK, Sworn

14 MADAM CHAIR: Please go ahead, Mr. Hook.

15 MR. HOOK: Well, first of all, if I may  
16 my name is Jim Hook, I'm a lawyer and I practice here  
17 in Kenora. I was born and raised here.

18 I'm a past President of the Ontario  
19 Federation of Anglers & Hunters and I am currently the  
20 President Elect of the Canadian Wildlife Federation, I  
21 take office a week Saturday.

22 Over the past 15 years or so issues of  
23 environment and conservation and wildlife have been  
24 something of a consuming passion with me and I was  
25 quite disappointed when it appeared I wouldn't have an

1 opportunity to appear before you on the Class EA on  
2 forests because it's an exercise which I've been  
3 following as closely as possible for -- well, since its  
4 inception.

5 I want to thank you Members of the Board  
6 and particularly the Treaty 3 representatives who have  
7 been kind enough to give me a little time to speak here  
8 today. I certainly appreciate the opportunity.

9 Of particular interest to me today was to  
10 bring to your attention something I think you've heard  
11 a bit about yesterday, if the information I've received  
12 is correct; and, that is, the Ministry of Natural  
13 Resources' exercise on the Aulneau Peninsula in  
14 managing habitat with wildlife values as the principal  
15 objective.

16 I just received from the Ministry about  
17 10 days ago the latest draft of the plan which may well  
18 turn out to be the final draft, and if I may I would  
19 like to provide the Board with a copy of it. (handed)

20 MADAM CHAIR: Thank you, Mr. Hook.

21 Excuse me. Ms. Blastorah, we don't have  
22 this in exhibit; do we have an earlier draft?

23 MS. BLASTORAH: No, it hasn't been filed,  
24 Mrs. Koven. It's the Aulneau Peninsula Wildlife  
25 Management Plan. I think the Board has heard about it

1 in past panels of evidence going in.

2 MADAM CHAIR: But we have no earlier  
3 draft?

4 MS. BLASTORAH: But there's no earlier  
5 draft, and I believe Mr. Hook has indicated it is a  
6 draft, it's nearing completion, but perhaps we can  
7 undertake to provide the Board with the final approved  
8 plan when it is approved.

9 MADAM CHAIR: All right. We will give  
10 this an exhibit number, 1851.

11 MR. HOOK: Thank you very much.

12 ---EXHIBIT NO. 1851: Draft of Aulneau Peninsula  
13 Wildlife Management Plan  
submitted by Mr. Jim Hook.

14 MR. HOOK: The reason I have a draft is  
15 I've served for several years on an advisory committee  
16 that the Ministry of Natural Resources established two  
17 or three years ago to provide them with advice as this  
18 management plan evolved. It's been a very interesting  
19 exercise to say the least.

20 It's involved people from the region from  
21 virtually all walks of life. There are several Indian  
22 bands that have lands near there and they have had  
23 representatives at many of the meetings, there have  
24 been representatives of the timber industry, and I  
25 believe you heard from one of them yesterday, Bob

1 Horley, who I find I concur with on most issues,  
2 certainly philosophically if not on the nuts and bolts,  
3 and much of the committee's deliberations I suspect  
4 would have been reflected in Mr. Horley's testimony in  
5 terms of the philosophy that the group of citizens that  
6 are acting as an advisory council have provided.

7 We have been very concerned to see that  
8 wildlife has stayed as the principal goal of the  
9 management plan. And what I find somewhat exciting to  
10 some extent about the whole concept is that if it works  
11 it is going to perhaps - and I hope it would provide a  
12 model for this province and perhaps for the country and  
13 even the continent in terms of managing our environment  
14 in a way that we can make use of our resources, and  
15 rather than harming the environment as we've done all  
16 too often in the past, actually enhancing it.

17 The problem, of course, will be evolving  
18 a management plan that recognizes not only the  
19 commercial values of resources but also the  
20 non-commercial values. For example, while there are  
21 some featured species in that document which are of  
22 principal importance, we tried in our deliberations to  
23 recognize that there are various other species, large  
24 and small, which would be very important in planning  
25 and you can't simply manage for one species without



1       harming another, you have to look at the entire  
2       ecosystem, and that has been the direction our  
3       deliberations have taken.

4               And the result is that - this may not be  
5       the final result - but this certainly reflects the  
6       evolution of our thinking on it as a panel with  
7       considerable assistance from biologists and timber  
8       people from the Ministry in evolving a plan which is  
9       attempting to achieve those goals of, for example,  
10      harvesting timber in such a way that it enhances  
11      wildlife habitat rather than harms it, in harvesting  
12      game species in such a way as to enhance their  
13      long-term survival rather than harm it; in other words,  
14      taking off the surplus before they reach critical  
15      levels and go through a natural die-off which often  
16      results in an extreme swing of the pendulum.

17             And the vision I have emerging is of a  
18      system that's managed to take the extremes out of the  
19      rises and falls in wildlife population and habitat and  
20      tries to maintain on a more or less consistent basis  
21      the best features of all the various interrelated  
22      resources that are there.

23             And, again, the vision I have of it is  
24      that it may possibly provide us with a model that could  
25      be applied throughout Ontario if it's successful, and

1 we certainly won't know that until it's been in place  
2 for a number of years, but after many years have been  
3 involved in this, this is certainly one of the more  
4 exciting alternatives to come along in many years.

5 I should mention too, you'll notice when  
6 you go through that among other things we were looking  
7 at restoring some of the damage that was done in the  
8 past; for example, restoration of population of North  
9 American elk or wapiti. Interestingly enough that has  
10 caused some excitement within some of the national  
11 wildlife organizations who indicated an interest in  
12 funding that restoration.

13 There's evidence that elk thrived in that  
14 area back in the 19th century and into the early  
15 decades of the 20th century and nobody seems to really  
16 have any idea of what happened to them but they  
17 certainly died off.

18 Our goal in this plan is to restore them  
19 because there appears to be habitat there right now  
20 that would support them, and it would certainly be nice  
21 for a change to see something back that we had lost for  
22 whatever reason.

23 I suspect some form of mismanagment in  
24 the early days when we didn't appreciate the  
25 interrelation of the species and habitat, I suspect

1       that had a good deal to do with the loss of the elk,  
2       but I was certainly pleased to see in the plan as it  
3       evolved the reintroduction of that particular game  
4       species.

5               Also, efforts will be made to restore  
6       peregrin falcons to the area and, again, another native  
7       species that has been almost non-existent in that area  
8       for a number of years probably as a result of  
9       unregulated logging practices which resulted in taking  
10      all of the habitat at once.

11             Basically what we're suggesting here is a  
12      rotation to maintain complete -- representative age  
13      groups of all the native trees to the area over their  
14      various successions, and I don't want to go into the  
15      actual plan, you can read that for yourself and see  
16      what's in there, but that was the concept, is to have  
17      the natural success represented and all of its  
18      variations and to manage to maintain that for the  
19      benefit of wildlife.

20             MADAM CHAIR: Excuse me, Mr. Hook. Are  
21      you proposing that this Aulneau plan serve as a model  
22      for certain areas of the province where wildlife is a  
23      priority, or are you suggesting that it be a substitute  
24      for timber management planning?

25             MR. HOOK: Well, what I'm suggesting is

1       that if it works it might well provide, not necessarily  
2       in the exact -- as an exact duplicate, but it might  
3       well project a model that could be applied perhaps  
4       throughout the province, it's difficult to say, but I  
5       wanted to bring to the panel's attention so that you  
6       could watch it and observe it, and perhaps that might  
7       be one of the alternatives that you would consider in  
8       preparing your final report as an alternative to  
9       recommend in terms of forest management where it's  
10      feasible.

11                   It probably wouldn't be possible to apply  
12      it everywhere, but wherever feasible I would suggest  
13      that it could provide the best of all worlds. It would  
14      provide for resources, we could extract on an ongoing  
15      basis, on a sustainable basis which would be in  
16      accordance with the world conservation strategy. It  
17      would also provide for the non-commercial species to be  
18      sustained on an ongoing basis with all the  
19      non-commercial values that go with that. So there's  
20      potential for both economic benefit and aesthetic  
21      benefit out of this plan, if it works.

22                   Again, we're very optimistic -- those of  
23      us that were on the committee were very optimistic that  
24      it will work but, of course, only time is going to  
25      tell.

1                   MR. MARTEL: What type of logging or for  
2                   what purpose is the logging, for timber or pulp or  
3                   what, since...?

4                   MR. HOOK: Well, the harvest would be  
5                   directed at, for example, removing trees that are  
6                   overmature, for example, or reaching the stage where  
7                   they'd be overmature and also to keep a mix, so that  
8                   there would be the succession throughout the ages.

9                   Because different species require forest,  
10                  as I understand it. Now, I am neither a biologist nor  
11                  a forester, just fairly dedicated amateur at this, but  
12                  my understanding is that - require a succession of  
13                  stages in the forest and logging would be used to  
14                  ensure the maintenance of that mix of forest to provide  
15                  the best possible habitat and, of course, the side  
16                  benefits of that would be the commercial harvest of  
17                  that.

18                  Now, you'll notice when you go through  
19                  there it's not expected, because of the remoteness of  
20                  the area and difficulty of access, that there's going  
21                  to be a great deal of commercial benefit to any logging  
22                  company in logging on the Aulneau; in fact, it might  
23                  well have to be subsidized in that particular location  
24                  to maintain it at that pace because the volumes would  
25                  be relatively low out of that area. It's not -- while



1       it is a large chunk of land, it's probably not a  
2       commercially viable one from the logging perspective in  
3       the 1990s.

4                   But applied -- if the principle worked  
5       and is applied to a larger area, then hopefully it  
6       would be commercially viable so that it would be  
7       self-sustaining.

8                   There are also some wildlife benefits  
9       that come out of that, of course. By maximizing the  
10      wildlife, for example, there are several large areas of  
11      reserve land on there which could perhaps be  
12      commercialized for hunting purposes by the bands that  
13      control those areas or even -- or for their own  
14      sustenance.

15                  And, again, by improving the habitat to  
16      the highest possible degree, then the production of  
17      wildlife that could be used for consumption and so  
18      forth would be maximized and, again, there's both  
19      economic and social benefits from that.

20                  I don't want to overstay my welcome here.  
21      I realize this -- there was a good deal of courtesy  
22      extended in arranging this time, so if you have any  
23      questions I would be pleased to attempt to deal with  
24      them.

25                  MADAM CHAIR: Do the parties have any

1 questions for Mr. Hook?

2 Mr. Cassidy?

3 MR. CASSIDY: No, Madam Chair.

4 MADAM CHAIR: Ms. Blastorah?

5 MS. BLASTORAH: I have just a few  
6 questions, Mr. Hook. I just wanted to clarify the  
7 objectives in this plan are wildlife objectives; is  
8 that correct?

9 MR. HOOK: The principal objective is  
10 the -- well, perhaps I could just refer to the  
11 purpose of this plan -- well, there's three goals in  
12 the start:

13 "Establishing wildlife population targets  
14 which are in keeping with the habitat  
15 capability; determining uses which are  
16 ecologically, socially, culturally and  
17 economically compatible with the wildlife  
18 resources; and identifying specific  
19 actions to be carried out over the next  
20 five-year period to achieve wildlife  
21 targets and provide for compatible and  
22 desirable uses."

23 So, yes, they're wildlife targets.

24 MS. BLASTORAH: And the harvesting that  
25 is to take place on the Aulneau Peninsula then is to

1       assist in the achievement of those targets?

2                   MR. HOOK:   Yes.

3                   MS. BLASTORAH:   And when you mentioned  
4       that the harvesting activities, the timber harvesting  
5       activities on the peninsula may have to be subsidized,  
6       I take it you meant those subsidies would be to ensure  
7       that appropriate actions were taken from a logging  
8       standpoint to assist in the achievement of those  
9       wildlife objectives?

10                  MR. HOOK:   The particular problem with  
11       the Aulneau Peninsula is accessibility.   The advisory  
12       committee felt very strongly that to maintain the  
13       remoteness of that area, the uniqueness of that area  
14       that the construction of all-weather roads would have  
15       to be prohibited.   That in turn created some access  
16       problems for both logging and for removal of harvested  
17       timber which would obviously burden any logger with  
18       costs which they normally wouldn't have to bear.

19                  And in terms of subsidizing, the  
20       committee was recommending that since this was an extra  
21       burden that was being imposed to maintain the  
22       remoteness and the habitat values, that consideration  
23       should be given to subsidizing loggers for the extra  
24       transportation cost.

25                  MS. BLASTORAH:   And am I correct that

1 other mechanisms to achieve the habitat objectives  
2 would be the use of wild fire, for instance, or the  
3 existence of wild fire and perhaps prescribed burning?

4 MR. HOOK: Yes. There are areas that  
5 have been identified by the biologists and foresters  
6 where commercial harvest would be -- would not only be  
7 economic but would be virtually impossible and at least  
8 unrealistic, and those areas -- and, in fact, with the  
9 wildlife values would be enhanced more dramatically by  
10 such things as controlled burns and -- they're fairly  
11 limited on the Aulneau, but there are several areas  
12 identified where that would be the recommendation.

13 MS. BLASTORAH: And to the extent that  
14 those other mechanisms or other ways of achieving  
15 habitat do, in fact, result in appropriate habitat  
16 within the context of the plan, that could affect the  
17 amount of harvesting that actually takes place on the  
18 peninsula?

19 MR. HOOK: Yes. It would affect the  
20 amount of harvesting, but where we're talking  
21 marketable timber though the idea was to subsidize  
22 where necessary the additional transportation costs  
23 resulting from the determination to maintain the  
24 remoteness and inaccessibility of the area to, again,  
25 maintain achieving character.

1 MS. BLASTORAH: And when Mrs. Koven asked  
2 you about the possibility, or whether you were  
3 proposing this as a replacement for the timber  
4 management planning process that is being presented to  
5 the Board, do I take it that your comment should be  
6 viewed in the context that this is, in fact, a wildlife  
7 plan with wildlife objectives as opposed to a timber  
8 plan with the objective of producing a certain amount  
9 of commercial timber?

10 MR. HOOK: Frankly, I would like to see  
11 the wildlife values that are reflected in this plan  
12 reflected in timber management plans across Ontario.

13 They can't be reflected to the same  
14 extent -- you know, being realistic, they probably  
15 can't be reflected to the same extent in the plans, but  
16 I would suggest that all timber management plans  
17 incorporate wildlife values for the simple reason that  
18 we've already found if we don't, then wildlife suffers.

19 MS. BLASTORAH: And in saying that then,  
20 are you saying that there should be cognizance in the  
21 preparation of timber management plans of the  
22 requirements of habitat, wildlife habitat?

23 MR. HOOK: Yes.

24 MS. BLASTORAH: And ensuring that there  
25 are steps taken to provide the appropriate habitat?



1                   MR. HOOK: Well, I've -- the Ministry has  
2 come and my experience come a fair way in doing that.  
3 I can recall attending early FMA meetings where timber  
4 managers would argue that recognition -- or that they  
5 didn't have to recognize any wildlife values. Now,  
6 that's going back perhaps 10 years.

7                   In more recent years my experience with  
8 not only Ministry timber managers but also managers for  
9 the corporations have become more and more cognizant of  
10 the need to recognize wildlife values.

11                  Frankly, I don't feel they've come far  
12 enough yet and this, to my mind, will provide a model  
13 or at least perhaps an ideal to which managers should  
14 strive to achieve within the constraints of the  
15 economics of harvesting.

16                  MS. BLASTORAH: You've spoken quite  
17 extensively about the importance of the plan itself and  
18 how you see that as a model.

19                  Could you give the Board a little more  
20 background on the advisory committee itself and how the  
21 role -- what you felt the role of the members of the  
22 advisory committee was and whether you felt that was a  
23 valuable role?

24                  MR. MARTEL: Before he answers that  
25 question, I just want to pick up on something he just

1       said, before we change topic.

2                   You said that MNR and company managers  
3       have changed to some degree--

4                   MR. HOOK:   Yes.

5                   MR. MARTEL:  --in realizing the necessity  
6       for habitat, but they hadn't gone far enough yet in  
7       your opinion.  How far would you go?

8                   Given your drothers, if someone said:  
9       Well, you can define it, what would you include or what  
10      would you change or alter?

11                  MR. HOOK:  I don't know that I can answer  
12      that question definitively.  Pressed on to recognize  
13      wildlife values I've seen, you know, those who've been  
14      reluctant initially come around and find some pretty  
15      innovative ways of addressing those issues.

16                  Also, having grown up in this area I know  
17      the value of the logging industry to the area and how  
18      disruptive it would be to try and impose too much too  
19      fast.  It would be disruptive economically and it would  
20      probably result in some loss of public support too if  
21      it was pushed too hard too quickly, but in the long  
22      term I think they should strive to reach the eventual  
23      goal of managing on an integrated basis for maximum  
24      wildlife availability.

25                  I think probably we have to take

1 experiments like this though and see them through  
2 before we can actually start setting where the limits  
3 should be.

4 My own personal goal is, you know, the  
5 value I see out there is more wildlife than timber, but  
6 I don't think we can lose sight of the importance of  
7 the timber either, and I feel that somewhere in there  
8 there's a balance where we can get great economic  
9 benefit out of the forest and, at the same time, look  
10 after those wildlife values, and I think it's just a  
11 matter of consideration.

12 And you had asked about, I had mentioned  
13 they had come some way, I haven't been to an FMA  
14 meeting for several years, but the last one I was at I  
15 noticed the biologists were -- had the floor a good  
16 deal more than they had at previous meetings I had been  
17 at, a good deal more attention was being paid to them  
18 and the final outcome, my own personal view was, that  
19 timber was still king, and perhaps that is the way it  
20 has to be, I don't know, but if it's king I would sure  
21 like to see it ruling under a fairly strong  
22 Constitution that imposed on it limits that ensured  
23 wildlife would be looked after on a sustainable basis.

24 MADAM CHAIR: Are there any other  
25 questions for Mr. Hook?

1 MS. BLASTORAH: Well, perhaps he could  
2 just -- I had asked him a question and he hasn't had a  
3 chance to respond.

4 Mr. Hook?

5 MR. HOOK: And my memory --

6 MS. BLASTORAH: Maybe I'll just go back.  
7 If you could just briefly for the Board outline the  
8 actual role of the members of the advisory committee.

9 MR. HOOK: I don't recall the exact date  
10 we had our first meeting. I apologize, by the way I  
11 didn't have time to brief myself, I got in from  
12 meetings -- two days of meeting in Ottawa at midnight  
13 last night and I'm tired today, and I didn't have a  
14 chance to go through.

15 I think it was two or three years ago  
16 that the committee was formed. Initially the first  
17 meeting or two was a feeling out process where we got  
18 to know each other. Also at that time I frankly  
19 thought that the people who were putting in the timber  
20 input were still a little insensitive to the wildlife  
21 issues.

22 Over the series of meetings and so  
23 forth -- and there were groups within the advisory  
24 council that formed and reformed as various issues came  
25 up and consensus developed among majorities and so

1       forth, it was a very interesting process.

2                   The end result though was that I feel  
3       that this document pretty fairly represents a consensus  
4       that was reached by people from all walks of life that  
5       were participating in the exercise, if that is what you  
6       were getting at.

7                   You heard, as I mentioned before, from  
8       Mr. Horley. Initially there was the late Joe Devlin  
9       who sat on the council who was a well-known logger in  
10      the area, who also had an appreciation for conservation  
11      in my experience. Mr. Horley I'm sure impressed you  
12      with his concern for the environment and for the  
13      wildlife and so forth.

14                  There were representatives from the  
15      tourist industry in the area and, of course, they're  
16      very interested in maximizing wildlife values but for  
17      their own commercial -- or primarily for their own  
18      commercial interests, but many of them also have a  
19      personal commitment to good management.

20                  There were representatives from  
21      municipalities in the area and, again, their concerns  
22      were to a large extent economic, but it's hard to live  
23      in this area without appreciating wildlife and the  
24      forests and so forth and recognizing them as a whole,  
25      it's not something that can be dealt with individually



1 and separately.

2 MADAM CHAIR: How many persons sat on  
3 this committee, Mr. Hook?

4 MR. HOOK: I believe it was in the  
5 neighbourhood of a dozen. I think there's a list of  
6 members in the back of the report.

7 MADAM CHAIR: That is fine.

8 MR. HOOK: Again, I apologize for my  
9 being somewhat unprepared. I had just assumed that I  
10 wouldn't be able to appear before you and it wasn't  
11 until last Thursday or Friday that it became apparent  
12 that I could appear, so...

13 MS. BLASTORAH: I believe there is a list  
14 of the members in the appendix, Mrs. Koven.

15 MADAM CHAIR: Are you going to make us  
16 look it up, or do you know how many there are?

17 MS. BLASTORAH: No, I believe there's 15.

18 MADAM CHAIR: 15, thank you.

19 Also, who chaired this committee?

20 MR. HOOK: The committee was chaired for  
21 the most part by Mr. Mettam I believe and Peter Waring  
22 of the Ministry of Natural Resources prior to that.

23 MADAM CHAIR: And what is their position  
24 at MNR?

25 MR. HOOK: Well, they were director of

1 wildlife I believe for the district at the time.

2 MS. BLASTORAH: Fish and wildlife  
3 supervisor.

4 MR. HOOK: Fish and wildlife supervisor,  
5 pardon me.

6 MS. BLASTORAH: One final question, Mr.  
7 Hook. Mr. Horley did mention that this committee is  
8 going to continue to exist beyond the final approval of  
9 the plan. Do you have or can you give the Board any  
10 information on what the role of the committee will be  
11 during the implementation of the plan?

12 MR. HOOK: Well, our hope is that we can  
13 from time to time meet and visit the peninsula and see  
14 how the various management techniques are being  
15 implemented and, of course, follow up later on and try  
16 and determine whether they've been successful.

17 We also expect to be pressing the  
18 Ministry to maintain an ongoing inventory of not only  
19 wildlife species but also the various species of  
20 plants -- well, the entire flora and fauna of the  
21 Aulneau to try and establish an ongoing record of the  
22 impact of the management techniques or the entire  
23 ecosystem on the Aulneau.

24 I think only that type of an ongoing  
25 inventory is going to tell us with any certainty

1       whether or not the techniques are viable.

2                   MS. BLASTORAH: Those are all my  
3       questions. Thank you very much, Mr. Hook.

4                   MR. HOOK: Thank you.

5                   MADAM CHAIR: Thank you very much, Mr.  
6       Hook.

7                   MR. HOOK: Thank you. And, once again,  
8       thank you to the Treaty 3 representatives for the  
9       opportunity to appear during your time. I certainly  
10      appreciate it.

11                  MADAM CHAIR: Mr. Colborne?

12                   TIM E. HOLTZKAMM,  
13                   LEO G. WAISBERG, Resumed

14                  MADAM CHAIR: Mr. Colborne, perhaps you  
15      would like to advise the Board on how you want to  
16      proceed with the scheduling?

17                   Normally we break for lunch from twelve  
18      to 1:30, but given this recess of your evidence, when  
19      do you want to break for the lunch hour?

20                  MR. COLBORNE: My suggestion was going to  
21      be that providing that the electronic equipment works,  
22      we have a video and this is not an inappropriate point  
23      in the evidence to show you it and that would take up  
24      about the time between now and noon and we would like  
25      to do that, but we haven't had a chance to push the

1 power button to see if it works. Just give us a moment  
2 to do that.

3 Also, I should get some direction from  
4 you. Where should we put it? Would it be okay to put  
5 it here facing across?

6 MADAM CHAIR: That's just fine. We can  
7 turn our chairs or do whatever we have to do.

8 MR. COLBORNE: The electronics appear to  
9 be working and what we have is a videotape of still  
10 photographs. I will be presenting the videotape itself  
11 to be filed as an exhibit.

12 Some of the still photographs are posted  
13 about the room so people can look at them with a little  
14 more convenience if they like, and the witnesses will  
15 tell us now about the origin of the photographs and  
16 where they fit into the evidence that they have been  
17 giving.

18 MADAM CHAIR: Thank you, Mr. Colborne.  
19 Then the videotape will be Exhibit 1852.

20 MR. COLBORNE: Thank you.

21 MADAM CHAIR: Do you want the same  
22 exhibit number to cover the photographs as well?

23 MR. COLBORNE: Yes.

24 MADAM CHAIR: The photos could become  
25 1852B. 1852A will be the video and there are 13

1       photographs?

2                   MR. COLBORNE:   Yes.

3       ---EXHIBIT NO. 1852A:   Videotape of still photographs.

4       ---EXHIBIT NO. 1852B:   Thirteen photographs.

5                   MADAM CHAIR:   Mr. Colborne, this night  
6       not be a good time, perhaps we will do it when we  
7       reconvene after lunch, but Mr. Martel and I had some  
8       questions about the sturgeon fisheries related to the  
9       last piece of evidence your witnesses gave.

10                  MR. COLBORNE:   I am sure they would be  
11       pleased to answer those questions at any time.

12                  MADAM CHAIR:   Shall we wait until after  
13       the --

14                  MR. COLBORNE:   Would you like to do that  
15       now?

16                  MR. MARTEL:    The thing we are concerned  
17       about, it was such a tremendous enterprise and clearly  
18       explained what happened to it, but has there been an  
19       attempt made through -- or to at least revive it?

20                  In other words, through stocking, through  
21       any direct effort by the Crown, through MNR to bring it  
22       back so that the Indian people in fact could have this  
23       to rely on and compete worldwide, for example, for the  
24       role in that and, if not, why not?

25                  MR. HOLZKAMM:   I can speak to part of



1       that. A year ago I attended a conference in Milwaukee,  
2       a lake sturgeon workshop largely attended by fisheries  
3       biologists. Two members from this district attended  
4       there from the Ministry of Natural Resources fisheries.  
5       I don't recall their names offhand. I didn't know that  
6       that would be important here, but they did present a  
7       poster paper on radiotelemetry studies in Lake of the  
8       Woods describing the range of sturgeon in this  
9       watershed, what their movements were on tagging  
10      operations to give them at least background information  
11      that could be used in the future in developing a plan  
12      for rehabilitating the sturgeon populations here.

13                   Just before I left my home to come up  
14      here, a copy of the Minnesota, Department of Natural  
15      Resources publication - it is called the Volunteer -  
16      came through the mail and they described -- they stated  
17      that there was the beginnings of a joint  
18      Minnesota/Ontario project to restore sturgeon to --  
19      well, lakes in Minnesota for the Minnesotans as well as  
20      the rehabilitation of the sturgeon in Lake of the Woods  
21      in the Rainy River watershed.

22                   They did not go into great details about  
23      that, but I can state that there is some interest going  
24      forward on that. I don't know how effective it will be  
25      until things like pollution are resolved and the like.

1        CONTINUED DIRECT EXAMINATION BY MR. COLBORNE:

2                                Q.    What is your understanding of the  
3        obstacles that type of project faces?

4                                MR. HOLZKAMM:    A.    A number of obstacles  
5        were identified.    Most interestingly was one from the  
6        Minnesota game warden in Baudette who identified  
7        perhaps objections from sports fishermen to restoring  
8        the sturgeon.    Fears that because sturgeon depend upon  
9        certain foods such as mayfly imps and crustaceans, that  
10       some sport fish also be -- this might be seen as a  
11       competition with the sports fishery.

12                               I might point out that there is a  
13       rudimentary sports fishery in Ontario, mainly up in the  
14       James Bay watershed, but to some extent on the Rainy  
15       River catching sturgeon with hook and line as a sport.

16                               Sturgeon do not readily take hook and  
17       line but there are, I am told, techniques for catching  
18       them that way.    It usually requires, given population  
19       levels, in Minnesota the figures I have seen are about  
20       250 hours to catch one fish, but when you do catch a  
21       fish it's a big one, and anectdotally I heard from a  
22       fellow from Hawaii who was fishing on the Rainy River.  
23       He said it was the next best thing to going to Hawaii  
24       and fishing for marlin that he ever found.

25                               Q.    Is there anything about the life

1 cycle, the size and so on for the feeding habits of the  
2 sturgeon that make it hard to bring the population  
3 back?

4 A. Yes. I've talked with the fisheries  
5 biologist in the Minnesota state capital - his name  
6 alludes me at this moment - who was involved in raising  
7 and breeding hatchery sized fish for stocking. He said  
8 it was very expensive. The fish are very selective  
9 about what they will eat when they are young and they  
10 are a long live fish; they grow slowly so it takes a  
11 considerable length of time to raise them to a size  
12 that can be stocked. That's one drawback.

13 It's simply expensive to raise them as  
14 with most species when you are first beginning  
15 experiments of this sort. You have to work out all the  
16 details before you can go into large scale production.

17 I did not -- when I was at the Lake  
18 Sturgeon conference -- I'm trying to remember their  
19 exact title. It is a group dealing with fisheries and  
20 ecology of Lake Superior. They did have a pen with a  
21 lot of young sturgeon that they had been raising. We  
22 went out in a kinikinagan, but I at least was given to  
23 understand that it was very expensive, complex project  
24 just in the beginning phases.

25 The potential gains of restoring sturgeon

1 are also high. Can you correct me on this, Leo, but I  
2 would suspect a sturgeon of the size that's pictured  
3 there would yield something like 30 to 40 pounds of  
4 roe?

5 MR. WAISBERG: A. 25 to 35.

6 MR. HOLZKAMM: A. 25 to 35 pounds. The  
7 roe would lose perhaps 10 per cent of its weight  
8 through salting in preparation for caviar.

9 When it was completed, we tried to obtain  
10 some from Chicago. The current price was \$40 an ounce  
11 I believe for sturgeon roe from the lower Mississippi  
12 Valley that was not quite equivalent to the Lake  
13 Sturgeon.

14 MR. WAISBERG: A. There were different  
15 types on sale.

16 MR. HOLZKAMM: A. Different types on  
17 sale.

18 Lake surgeon roe is almost unavailable in  
19 the United States for caviar. So the price that you  
20 can command for it would be well beyond the means that  
21 most consultants like us could afford.

22 MR. WAISBERG: A. Yes. The caviar that  
23 was taken out at the time of the tremendous overfishing  
24 of the lake, as we now know from other subsidiary  
25 research by other scholars, John Van West in



1 particular, that caviar was taken and sold in Europe as  
2 Russian caviar. So it was of an extremely high  
3 quality. The kind of quality to pass off as good  
4 Russian...

5 MADAM CHAIR: Excuse me. Is the  
6 situation of declining or very much dessimated sturgeon  
7 fisheries in Lake of the Woods -- does this situation  
8 occur elsewhere?

9 Is it only in this area where there has  
10 been a decline or whenever in north American there have  
11 been sturgeon fisheries where have they also declined?

12 MR. HOLZKAMM: Yes.

13 MR. WAISBERG: In the 1905 fisheries  
14 report, I believe, of the Department of Fisheries,  
15 their biologist, Professor Prince, reviewed the  
16 historical development and collapse of fisheries on  
17 sturgeon from the east coast of Canada inland to Lake  
18 of the Woods and that was the pattern that he found  
19 from his review of the literature at that time. An  
20 enormous boom when the resource is first tapped  
21 followed by a collapse.

22 MR. MARTEL: That's simply because we  
23 went at it with such vigor?

24 MR. HOLZKAMM: It is interesting to note,  
25 our research when we looked at the sturgeon harvest



1 over the pre-Treaty period and the post-Treaty period,  
2 we discovered an interesting phenomenon.

3 If we totalled up all of the years of  
4 Ojibway fishery and then started from the beginning of  
5 the commercial non-Ojibway fishery and went ahead for  
6 the same number of years, we discovered that in terms  
7 of average yields the Ojibway managed to maintain a  
8 fishery that was yielding substantial numbers of fish,  
9 much higher, I'm told in conversations with fisheries  
10 people, than they would have ever expected a fishery, a  
11 sturgeon fishery to produce.

12 So there is rudimentary evidence that  
13 some regime management existed by the Ojibway to  
14 produce larger proportions of fish than has been  
15 possible since. So that there is a potential for a  
16 large scale sustainable fishery in sturgeon.

17 MR. WAISBERG: This is what those  
18 biologists found very interesting about this.

19 MR. HOLZKAMM: I published -- Leo was  
20 quoting earlier from a joint article that he and I and  
21 Ministry of Natural Resources -- current now Ministry  
22 of Natural Resources put together.

23 Previous to that, I had published with  
24 another researcher an article in the Canadian Journal  
25 of Fisheries and Aquatic Science, something on that,

1 and the reviewers all found it very focused on that  
2 point, that the yields were -- the sustainable yields  
3 seemed much higher than what they would have  
4 anticipated from what they had previously looked at.

5 MR. WAISBERG: And seemed to contradict  
6 the accepted --

7 MR. HOLZKAMM: Yes. Oh, it definitely  
8 contradicted the accepted management hearing.

9 MADAM CHAIR: Thank you very much.

10 Shall we go ahead with the video.

11 MR. COLBORNE: A. Tell us what we need  
12 to know before we start playing it, please.

13 MR. HOLZKAMM: A. I would point out that  
14 these are based upon images which I collected on behalf  
15 of the Lake of the Woods cultural centre and Treaty and  
16 Aboriginal Research Grand Council, Treaty 3.

17 In 1984 I believe, there were collected  
18 from the son of a frontier photographer in the Kenora  
19 region, Kenora and Lake of the Woods region. The  
20 photographer was named Carl Linde and he made a large  
21 photographic collection as a professional photographer  
22 during the first two decades of the century.

23 Unfortunately many of them have been  
24 lost, a lot of others have survived. On behalf of TARR  
25 and the cultural centre I obtained permission to copy

1 the Indian images of those relating to subjects of  
2 interest to the Ojibway for research purposes.

3 Because the son of Mr. Linde, Mike Linde,  
4 was becoming old and a little bit feeble he was  
5 concerned what would happen to the collection. The  
6 originals are now in repository at the Minnesota  
7 Historical Society in St. Paul.

8 One of the reasons why we did not want to  
9 keep them at TARR was the originals -- a lot of the  
10 original images are on nitrocelluloid which decomposes  
11 into nitroglycerine. I was told that while I had a  
12 cigarette in my mouth. I immediately put it out.

13 These are made from the slides that we  
14 have at the TARR office. They deal with the first two  
15 decades of this century and that was a period of  
16 transition for a lot of the Ojibway in this region.  
17 Much of the traditional culture survived. So you will  
18 see in the images birch bark canoes being made and  
19 used. You will see traditional housing being used. As  
20 well, you will see log cabins in the background being  
21 used by the people. A transition from traditional  
22 forest -- use of forest products to a more contemporary  
23 one. So it was a transitional period and you will see  
24 both items of traditional culture involving the forest  
25 as well as more modern things.

1                   At the end I have included some images  
2                   from the Linde collection of lumber camps within the  
3                   Treaty No. 3 area, largely connected with railway  
4                   construction in the region producing ties and timber  
5                   for railway construction.

6                   They are part of a photo album that Carl  
7                   Linde created. Those are not part of the TARR  
8                   collection. They didn't specifically deal with Ojibway  
9                   images, so I had not retained them at that time. The  
10                  Minnesota Historical Society graciously gave us copies  
11                  of that to include here. We thought they would be of  
12                  interest and use before this Board.

13                  Is there anything we should add to that?

14                  I think that pretty well covers it.

15                  MR. FREIDIN: Madam Chair, I am just  
16                  wondering, based upon the expectation that we would be  
17                  breaking at twelve o'clock I made arrangements to make  
18                  a phone call to be made right around the noon hour.

19                  I am wondering whether it would be best  
20                  not to take the last five minutes to start this. It is  
21                  up to you, but I would ask that we be able to break at  
22                  noon.

23                  MADAM CHAIR: Mr. Colborne?

24                  MR. COLBORNE: I'm in your hands.

25                  MADAM CHAIR: Well, you've had several

1 interruptions this morning. Is this a problem for the  
2 witnesses if we stop now that you done your  
3 introduction to the video and we come back at 1:30 and  
4 pick up from where we...

5 MR. COLBORNE: It's not a problem.

6 MADAM CHAIR: You will be giving us a  
7 narrative as the video continues.

8 MR. WAISBERG: Yes.

9 MADAM CHAIR: All right.

10 Your indulgence one more time this  
11 morning, Mr. Colborne. Thank you very much. We will  
12 be back at 1:30.

13 ---Luncheon process at 11:55 a.m.

14 ---On resuming at 1:35 p.m.

15 MADAM CHAIR: Are we ready to get  
16 started, Mr. Colborne?

17 MR. COLBORNE: Yes, we are, Madam Chair.  
18 The video is ready to play and the witnesses are  
19 prepared to provide commentary to explain what will be  
20 shown and they have placed a microphone so that the  
21 reporters can hear what they are saying, but if you  
22 could just tell us if it is not working well enough.

23 I will just ask the witnesses to proceed.  
24 We don't have a remote for the player so they are going  
25 to have to pause or actually physically hit the pause



1 button if they have to stop to examine any photographs.

2 So I would suggest that if anybody does  
3 want to do that just to speak up fairly quickly so we  
4 don't have to search through the tape to find it again.

5 MR. HOLZKAMM: This photograph here is  
6 Carl Linde, the artist who took many of these pictures.  
7 Note the teepee with large sheets of birch bark; a  
8 tikinagan, a wooden frame across the front to protect  
9 the face. Children.

10 Again a teepee. Brush arbor over here.  
11 Those sheets came from large trees.

12 This is a series of birch bark canoe  
13 construction just by Devil's Gap. About a mile from  
14 here, Leo?

15 MR. WAISBERG: Yes. The stages of  
16 construction. As you can see there, the cedar ribs  
17 being placed in the frame of the birch bark.

18 THE COURT REPORTER: Sorry, we can't  
19 hear, Mr. Waisberg.

20 MR. HOLZKAMM: We are back with the canoe  
21 construction here at Devil's Gap.

22 We are continuing with the sequence of  
23 canoe construction. Now, this is the framework of  
24 saplings on the outside of the canoe to retain its  
25 shape.

1 MR. WAISBERG: And the sewing at the end  
2 to form the brow of the canoe.

3 MR. HOLZKAMM: Also the mix with the more  
4 contemporary tent and the traditional forms of  
5 transportation.

6 MR. WAISBERG: A good shot of the cedar.

7 MR. HOLZKAMM: Ribs and planking.  
8 Teepee again.

9 Again, when the teepee is covered with  
10 canvass it is retaining the traditional form. This is  
11 a wigwam construction with bent saplings tied  
12 traditionally with vegetal fiber and covered with  
13 sheets of bark.

14 A family in a canoe. They have an infant  
15 in the tikinagan.

16 A close up. You can see the pitch seams  
17 here on the canoe.

18 This is a traditional housing structure.  
19 It's rectangular but it is covered with bark made out  
20 of saplings. Birch bark grave houses. If you look  
21 carefully you will see the opening here where food is  
22 left for the spirits.

23 Stove pipe from a wood stove sticking  
24 out.

25 MR. WAISBERG: Fish drying in the

1 background.

2 Better shot of the drying fish, white  
3 fish I think in this case.

4 MR. HOLZKAMM: Birch bark canoe again on  
5 Lake of the Woods.

6 There you can see the kinikinagan and  
7 little (inaudible) to keep away the spirits.

8 Wood protection.

9 ---Discussion off the record

10 MADAM CHAIR: Thank you very much.

11 Shall we go ahead with the video.

12 MR. HOLTZKAMM: They are hunting in a bed  
13 of wild rice. I think we'll get a close-up in a minute  
14 and you'll see that the gun is not quite pointed at his  
15 head.

16 Drying corn you say.

17 MR. WAISBERG: Drying Indian corn on a  
18 wooden frame.

19 MR. HOLTZKAMM: Fish net traditionally  
20 made out of natural vegetable fibers. This one appears  
21 to have been made of pine.

22 MR. WAISBERG: That's one of the Treaty  
23 terms.

24 MR. HOLTZKAMM: Yes, right. Again, I  
25 think that's moccasin game or mitten game, I can't tell

1       what they're using there. Birch bark canoe with a  
2       sail.

3                       Do you want to pause that one just a  
4       minute there. That's the -- we'll come back to it so  
5       you can see it, but I wanted to describe it a little  
6       better, we'll lose the image first. That's the  
7       Blindfold pictograph site.

8                       MR. WAISBERG: Blindfold Lake pictograph  
9       site.

10                      MR. HOLTZKAMM: Blindfold Lake, okay. I  
11       had it described to me by Linde's son as the Blindfold  
12       Rapids site. You'll notice the pictographs in the  
13       background and the grave offering -- or the offerings  
14       in front of it for the spirits. How far would that be  
15       located from your left?

16                      MR. WAISBERG: Oh, about five to six  
17       miles east.

18                      MR. HOLTZKAMM: I think you drive right  
19       by Blindfold Lake as you come up from Fort Frances.

20                      MR. WAISBERG: On the way up to Fort  
21       Frances.

22                      MR. HOLTZKAMM: Okay, I think you can  
23       reset.

24                      A bit of a close-up shot of the  
25       offerings. Again, a conical tepee covered with bark,

1 large sheets. Another tikinagan.

2 See the extremely large sheets here on  
3 the whole framework, as well as the drying union suits.

4 MR. WAISBERG: This is a very good shot  
5 of the bark.

6 MR. HOLTZKAMM: This is an Indian village  
7 site on Lake of the Woods. Notice again the mix of  
8 transportation with the canoes and a small steamboat  
9 there. The wooden rowboat here, birch bark wigwam, or  
10 tepee rather.

11 Where's this located in the tour?

12 MR. WAISBERG: I believe that's in  
13 Kenora, might be Matheson Street.

14 MR. HOLTZKAMM: Okay. Log cabin in  
15 background. I think you can make out the floral motifs  
16 on some of the costumes on the chiefs here drawn from  
17 woodland flowers, and that's --

18 MR. WAISBERG: The caption is "mending  
19 the nets".

20 MR. HOLTZKAMM: And this is an  
21 interesting one of a woman making a basket. Baskets  
22 aren't as frequently mentioned in this region because  
23 of prevalence of birch bark it was so easy to form and  
24 make into a basket that you didn't need to rely on  
25 other forms.



1                   This is a comment, those little girls  
2                   holding a Browning camera there taking a picture as  
3                   she's being photographed. Same thing again.

4                   MR. WAISBERG: Outside the wooden tepee.

5                   MR. HOLTZKAMM: Tikinagan, there again  
6                   and, of course, caribou on Lake of the Woods during the  
7                   century. Wild caribou. They sit very high in the  
8                   water because their fur is buoyant.

9                   I think this was another caption. That  
10                  one was identified as Northwest Angle.

11                  MR. WAISBERG: Good shots of the pitch on  
12                  the seams.

13                  MR. HOLTZKAMM: And the wooden gum all  
14                  Around the top. Again, a near miss. And note the  
15                  timber in the water here in this camp scene, the tepee  
16                  in the background.

17                  MR. WAISBERG: And this is Manitou Mounds  
18                  on the Rainy River and that's one of the old steamers  
19                  that used to go up the river.

20                  MR. HOLTZKAMM: There's an Indian pilot.

21                  MR. WAISBERG: Indian pilot to take it  
22                  through the rapids.

23                  MR. HOLTZKAMM: Again the mounds.

24                  MR. COLBORNE: Q. What are those mounds?

25                  MR. HOLTZKAMM: A. From the laurel

1 culture along the Rainy River, they're artificially  
2 constructed by the inhabitants. Drying fish again.

3 MR. WAISBERG: Yes, that's drying fish  
4 and more fish.

5 MR. HOLTZKAMM: And more fish.

6 MR. WAISBERG: Canvass tepee.

7 MADAM CHAIR: Excuse me. What was the  
8 population of the villages?

9 MR. WAISBERG: Well, I'm not entirely  
10 sure which particular bands that village belonged to  
11 but if it was one of the Assabaska band villages the  
12 band population at the time that Linde was taking this  
13 photo during the second decade of this century was  
14 probably about 200.

15 But, of course, people had different  
16 resource areas that they would make their living from,  
17 so although their village was there they didn't live  
18 all the time at the village.

19 MR. HOLTZKAMM: They were travelling  
20 around a lot. There was a great deal of visiting and  
21 interaction. Dance hall. Another camp. I think there  
22 is a coloured photograph of that.

23 MR. WAISBERG: More Indian corn drying on  
24 a crib.

25 MR. HOLTZKAMM: You'll notice some of

1       these are coloured. Colour photography was not  
2       available, these were retouched with an air brush by  
3       Mr. Linde. Birch bark, metal pails. I think this is  
4       Long Sault --

5                   MR. WAISBERG: Yes, it looks like one of  
6       the mounds at the Long Sault.

7                   MR. HOLTZKAMM: And framework in the  
8       background. That may have been part of a  
9       midi-religious structure.

10                  MR. WAISBERG: Grave house.

11                  MR. HOLTZKAMM: Openings for offerings.  
12       Free dentistry and Treaty day. Two young girls best  
13       dress, again, the floral designs from woodland  
14       inspiration on the costume.

15                  MR. WAISBERG: These are blueberry  
16       baskets. The caption is --

17                  MR. HOLTZKAMM: "Indian blueberry  
18       pickers". Do you want to pause that for a minute there  
19       and talk about that one.

20                  MR. WAISBERG: Yes. One of the people  
21       photographed in the next photo that's coming up on the  
22       left is Chief Thomas Lindsay of Rat Portage and the  
23       Dalles from around 1890 through to his death in the  
24       1920s I believe.

25                  He's wearing his Treaty medal and I

1 believe a medal for meeting the Governor-General in  
2 1901.

3 MR. HOLTZKAMM: He did a lot of  
4 contracting work for lumber camps and --

5 MR. WAISBERG: Yes, he received several  
6 contracts from Indian Affairs to erect a school house  
7 on the Dalles reserve.

8 MR. HOLTZKAMM: And I remember he also  
9 had garden lands.

10 MR. WAISBERG: He has a small farm, as he  
11 put it, on the Dalles Reserve.

12 MR. HOLTZKAMM: A small farm, and that is  
13 Thomas Lindsay again.

14 MR. HOLTZKAMM: And the Treaty medals,  
15 colourized version.

16 MR. WAISBERG: That is Indian agent Frank  
17 Edwards, the Indian agent for the Kenora agency from  
18 about 1920 through 1940.

19 MR. HOLTZKAMM: Big canoe, little canoe.  
20 Taking some of the tourists out for a spin on the lake  
21 it looks like.

22 MR. WAISBERG: The colourized version  
23 gives you some idea of how Linde saw the scene himself.  
24 This is again at the Long Sault with the steamer docked  
25 there on an excursion.

1                   MR. HOLTZKAMM: And one of the village  
2 sites again, possible fishing stations.

3                   MR. WAISBERG: This gentleman here near  
4 the end of his life Linde caught him mending his canoe  
5 one day at Northwest Angle. This is Chief Powassan,  
6 one of the Treaty 3 signatories.

7                   MR. HOLTZKAMM: You might deal with the  
8 Treaty notes too that Powassan gave to Linde.

9                   Okay. At some point Chief Powassan  
10 transferred written notes concerning the Treaty, Treaty  
11 No. 3, that contained provisions that differ somewhat  
12 from the published version of Treaty 3, the version  
13 that is published by Canada.

14                   He gave those to Mr. Linde who kept them  
15 in his care for many years as a friend of the Indians  
16 and then returned them to one of the Treaty No. 3  
17 elders, Mr. Paypom. We know it as the Paypom Treaty,  
18 and we have copies of the Paypom Treaty at the TARR  
19 office.

20                   MR. WAISBERG: And the notes, or rather  
21 the Paypom Treaty are substantially identical in their  
22 content with another set of notes kept by Governor  
23 Morris at the conclusion of Treaty 3 called the Nolin  
24 notes. These were attached to his official report and  
25 were sent to Ottawa and a copy retained in Winnipeg.



1 MR. HOLTZKAMM: Just for your reference,  
2 because this will probably go through fairly fast after  
3 I punch the pause, but what Chief Powassan is holding  
4 in his hand is a torch and he's warming the pitch on  
5 the canoe to spread it so he can seal the seam.

6 I wanted to try this. I had an  
7 opportunity but they wouldn't let me near a birch bark  
8 canoe with a torch in my hand down in Minnesota.

9 MR. WAISBERG: It has to be carefully  
10 done, Ted.

11 MR. HOLTZKAMM: Yes, very careful.

12 MR. WAISBERG: More Indian corn on a crib  
13 with a canvass tepee in the background.

14 MR. HOLTZKAMM: Colourized version.  
15 Indian canoes near the wild ricing grounds. That's not  
16 rice in the background, it's a raid.

17 MR. WAISBERG: This is more drying fish,  
18 a colourized version, and that is the fish that we just  
19 saw plus a crib of corn.

20 MR. HOLTZKAMM: Colourized version. I  
21 think we have there. These are pictures of lumber  
22 camps from a photo album that Mr. Linde did of  
23 construction along the railway lines about 1915.

24 I have not been able to identify any  
25 Indians in these pictures, but they are historic

1        photographs of lumber camps so we included them in the  
2        video.

3                        And I think in some of them you can see  
4        the effects of clearcutting, also the size of some of  
5        the camps indicate sizeable operation.

6                        MR. HOLTZKAMM: You can see some of the  
7        clearcutting as well. And finally end with a picture  
8        of Mr. Linde.

9                        MR. COLBORNE: Thank you. Just before I  
10       go on, are there any questions that arose out of that  
11       that were inconvenient to ask. Perhaps we should ask  
12       that before continuing.

13                       MADAM CHAIR: No, we don't have any  
14       questions, Mr. Colborne.

15                       MR. COLBORNE: Thank you.

16                       Q. I believe that we left off partway  
17       through a discussion of the uses by Ojibways of forest  
18       resources for producing goods such as canoes.

19                       The next question I wanted to ask you  
20       was: Did the Indians do anything to protect the  
21       resources that were used in canoe construction?

22                       MR. HOLTZKAMM: A. Yes. In particular  
23       their feelings and belief that the world around them,  
24       the animal and the plant world, especially the plant  
25       world in this case, that there were spirits associated

1 with these and that it was obligatory for humans to  
2 observe proper relations with these spirits and the  
3 plants.

4 So that whenever one went to, for  
5 example, take birch bark for making a canoe, one would  
6 have to make an offering of tobacco to the spirits of  
7 the birch tree and would promise to make full use of  
8 the birch bark, that they would not waste anything from  
9 it and that they appreciated the sacrifice that the  
10 tree was making in its relationship with people.

11 Further, as part of this people did not  
12 like to waste any part of a tree or a plant that was  
13 approached in this way, so it was fully utilized, you  
14 tried to use all of the wood, all of the bark and not  
15 leave anything, you approached it reverently.

16 Something treated this way was not wasted, so you were  
17 very careful not to profane it by treating it  
18 irreverently, using it up before you should.

19 This had the effect of making people  
20 careful about over using -- that they did not over use  
21 resources such as a birch tree; to do so would offend  
22 the spirits of the birch and might cause them to  
23 withdraw their protection and relationship from the  
24 people.

25 Q. I believe that you've said that the

1 kind of information that you've just referred to comes  
2 generally from two sources when you're doing your work  
3 and; that is, from the written record made by Europeans  
4 and from statements given by Ojibways.

5 The information that you've just been  
6 telling us; that is, about the ways in which -- taking  
7 and use of some natural products were treated, where  
8 did that information come from?

9 A. Two sources, one source is Densmore  
10 who specifically describes - he did research at Emo -  
11 which specifically describes the relationship with  
12 birch trees. This is covered almost pro forma in  
13 almost any of the books - I can't think of any  
14 exceptions - deal with Ojibway religion and beliefs.

15 Furthermore, although my personal  
16 experience did not relate to birch trees, in doing  
17 field work I had one of the elders carefully explain  
18 the same thing to me in relationship to medicinal  
19 plants at Lac la Croix and recently - I don't have a  
20 copy on hand here, I believe I cited it in the  
21 interrogatories - one of the elders from Manitou Rapids  
22 went into a fairly lengthy description of the  
23 importance of demonstrating gratitude to plants and  
24 animals for their sacrifice to people.

25 So I have it from both written sources

1 and my on personal research.

2 Q. You mentioned medicinal plants. What  
3 do you know about medicinal plants from the forest in  
4 terms of the historical record and the ethnographic  
5 record of the Ojibways in this part of the country?

6 A. In the historic record, it goes way  
7 back, the early 1800s, the medicine bundles  
8 containing -- you know, which normally contained plant  
9 medicines were being described by fur traders writing  
10 about the boundary waters.

11 I believe Peter Grant describes them  
12 regarding the Soto or the Ojibway on Lake of the Woods  
13 and Rainy Lake of 1804. It's a fairly lengthy  
14 description of plants.

15 Again, I would come back to the most  
16 fulsome description of plant use which is by Frances  
17 Densmore. She has very long lists of the plants used  
18 for medicine and, interestingly enough, in her work  
19 describes the symptoms that they're intended to  
20 resolve. You can refer to -- I believe that's one of  
21 the appendices in the database or in the report.

22 Q. That's Appendix 3 to the witness  
23 statement.

24 A. Okay.

25 Q. And I believe you're referring to the



1 several pages of reference--

2 A. Many pages.

3 Q. --to plants by botanical name, part  
4 of the plant used, the symptoms, and the system or  
5 part; that is, system or part of the human body  
6 affected.

7 A. Correct.

8 Q. And if I am not mistaken, this is  
9 many, many pages not just a few pages. Was that all  
10 from this one individual Densmore?

11 A. That is from Densmore. Again, I  
12 referred earlier to ethnobotanical studies among the  
13 southwestern Ojibway of which the Ojibway in the Treaty  
14 No. 3 region were a part.

15 There is a lot of different ethnobotanical  
16 research Huron Smith, equally massive compendium.

17 MR. WAISBERG: A. Virgil Gobles.

18 MR. HOLTZKAMM: A. Virgil Gobles.

19 MR. WAISBERG: A. American Indian  
20 medicine.

21 MR. HOLTZKAMM: A. Melvin Gilmore.

22 Q. Is there any substantial controversy  
23 in the ethnohistorical sources of information about  
24 whether or not the Ojibways had a substantial medicinal  
25 use of plants from the forest?

1                   A. There's absolutely no dispute that it  
2 was extensive and that they made full use of these  
3 plants for these purposes.

4                   Interesting point regarding this, for my  
5 own experiences in growing up I collected medicinal  
6 plants from this list and sold them to pharmaceutical  
7 companies where the various active chemicals were  
8 extracted. I had a somewhat fitful living from doing  
9 that.

10                  That was an important part of the Ojibway  
11 economy here in the late 19th century and into this  
12 century, gathering certain medicinal roots for sale.  
13 If they wanted to, there is still companies that buy  
14 them.

15                  Q. Tell me something about the use of  
16 these plants for healing. How was that done and who  
17 did it?

18                  A. There was a professional organization  
19 of Ojibway healers known as the Mideowin, within their  
20 group they controlled an extensive individual knowledge  
21 and the aggregate of plants for healing.

22                  I say individual and aggregate because  
23 one of the aspects of Ojibway belief regarding these  
24 plants is that an individual must be gifted - that's a  
25 term elders have used in describing it to me - or have

1 a relationship with particular plants before he can use  
2 them for medicine.

3 To use them otherwise, just to go out in  
4 the woods and randomly gather a plant would be seen as  
5 potentially dangerous, because the person did not have  
6 a relationship with that particular plant he would not  
7 be able to go out and gather them.

8 To be more specific on that, one of the  
9 elders at the Lac la Croix Reserve, Roy Burnside,  
10 explained it to me in detail, he said, if you spotted  
11 one of these plants and went out and gathered it  
12 yourself it would not be very efficacious, it wouldn't  
13 perform the cure, it has to be done by someone who has  
14 the knowledge and ability, very much like  
15 self-diagnosis today with severe medical situations.  
16 You don't do it, it's dangerous.

17 Q. Has it been shown in the context of  
18 what we refer to as western medicine that these  
19 medicinal plants work?

20 A. Yes.

21 Q. Can you think of any examples or can  
22 you give us examples?

23 A. Oh yes. Highbush cranberry,  
24 azivernum, I don't know the sub-species or species  
25 name, if you strip the bark off of it and make a tea

1 from it it will make a powerful diuretic, it clears --  
2 it allows you to urinate if you're having blockage  
3 problems.

4 There's a number of other plants of this  
5 type and it's a large list. They were used for  
6 treating headaches, female disorders, to reduce pain,  
7 to cure stomach cramps, a large variety of them.

8 Again, it's difficult to obtain  
9 information on these things because of the belief that  
10 you have to have the relationship. Indiscriminate use  
11 is seen as dangerous and elders are frequently  
12 reluctant to talk about those things for fear that they  
13 may be misused, the plants themselves will be misused  
14 or cause damage.

15 Q. Are some of these plants rare?

16 A. Some of them are rare. I've looked  
17 very hard for some of them. I believe, if I remember  
18 right, ginseng is one of them that was used. It was  
19 certainly gathered by the Ojibway, and so that's  
20 definitely a rare plant wherever it's found.

21 Q. Is there anything within Ojibway  
22 social or cultural practice to prevent the over use of  
23 this type of plants, I guess that's particularly where  
24 it's rare?

25 A. Or in any case because it's not so

1 much a concept of rarity that enters into it as the  
2 fact that indiscriminate use, wasteful use would  
3 endanger the relationship that people have with those,  
4 that might cause the plant to withdraw its protection  
5 from people, its involvement, so that it would no  
6 longer be as efficacious as a medicine.

7 On a purely scientific note, I commented  
8 earlier that many of these plants are known to have  
9 curative properties or used by modern medicine in  
10 distillate form, and currently one of the major  
11 activities - not in this area, because most of our  
12 plants here are well known and catalogued - but in  
13 other parts of the world is the seeking out of  
14 traditional knowledge concerning these plants and its  
15 possible application to modern medicine.

16 I believe that's one of the growth  
17 industries in other parts of the world and major  
18 argument for preserving certain ecological systems.

19 Q. Do I understand you to be saying,  
20 however, that in this territory it has been done and  
21 that is represented by documents such as Appendix 3?

22 A. Right, yes. Most of our plant  
23 communities are fairly well-known; new species are not  
24 frequently discovered in this region, any species that  
25 have not been previously identified.



1                   Q. Thank you. Now that we have covered  
2 briefly some of the uses of forest products by the  
3 traditional Ojibway economy, I want to turn my  
4 questions more into the field of history to trace or at  
5 least outline what the Ojibway society, which you have  
6 told us was here according to the very first historical  
7 records, what happened to that society through time  
8 leading us toward the present.

9                   Therefore, I am going to talk about -- or  
10 ask you about the fur trading period and the first  
11 question would be, when is the fur trade period? When  
12 are we talking about when we use that term the fur  
13 trade period?

14                  A. The fur trade period of this region  
15 began in a major way with the exploration and the  
16 establishment of a trading post by Alexander Henry, the  
17 elder, about 1775.

18                  That started the process by which a  
19 Montreal-based fur trade, the XY Company, the Northwest  
20 Company entered into serious competition with the fur  
21 trade company based upon Hudson's Bay, the Hudson's  
22 Bay.

23                  So after the period of 1775 there was a  
24 period of extremely intense competition of furs by  
25 these competing firms. One used a transport system out

1 of Montreal based upon very large canoes on the Great  
2 Lakes with somewhat smaller canoes inland. The other  
3 system, the Hudson's Bay Company system, its  
4 transshipment routes were inland from the bay. They  
5 would use York boats up the Albany and other rivers.

6 Q. So it starts...

7 A. Approximately 1775.

8 Q. And when would you say it ended?

9 A. Well, the period of fur trade  
10 competition effectively ends in much of northern  
11 Ontario after the amalgamation of the Hudson's Bay  
12 Company with its major competitor, the Northwest  
13 Company in 1821.

14 Other ethnohistorians have looked at the  
15 impact of that merger and have seen that the prices  
16 paid to Indians for furs dropped substantially and the  
17 Indians had much less room to commercially maneuver.

18 In the case of this area, however, after  
19 1821 there was still substantial competition from the  
20 American fur companies and that, therefore, the  
21 Hudson's Bay Company was still faced with competition  
22 which it was not faced with elsewhere.

23 The result was higher prices paid not  
24 only for furs, but for the other products that the  
25 company purchased.

1 Q. You mentioned that the fur trade out  
2 of Montreal was one, the trade out of Hudson's Bay was  
3 another and then you mentioned the American traders  
4 that came in a little later in time. Where did they  
5 trade out of?

6 A. The American traders?

7 Q. Yes.

8 A. They traded out of basically a spot  
9 that's now called International Falls.

10 Q. What was their route if they  
11 purchased anything at International Falls? Where did  
12 it go from there?

13 A. It would go to Superior into  
14 Mississippi.

15 MR. HOLZKAMM: A. They used the Font De  
16 Lac, the St. Louis River through Vermilion Lake and  
17 then the Mississippi watershed.

18 Q. Where is the headwaters of the  
19 Mississippi in relation to the Treaty 3 territory?

20 A. You draw a line with the boundary of  
21 Manitoba and Ontario and extend it south about to here  
22 in Minnesota is you will find the headwaters of the  
23 Mississippi.

24 MR. WAISBERG: A. About 150 miles.

25 MR. HOLZKAMM: A. The Big Fork River

1       which flows into Rainy River has headwaters not too far  
2       from the Mississippi River. So it is easy to go from  
3       Rainy River through to Big Fork and through a small  
4       series of portages into the Mississippi River.

5                       Q. Now, Mr. Waisberg, you were telling  
6       us that there was a period of time when the American  
7       traders were competing with the combined Canadian  
8       company or English company?

9                       MR. WAISBERG: A. With the Hudson's Bay  
10      Company.

11                      Q. Yes.

12                      A. And with the northwest company.

13                      Q. Which had combined?

14                      A. Yes, after 1821.

15                      Q. How long did that competition  
16      continue?

17                      A. That competition continued for some  
18      years until the American fur company was dissolved.

19                      However, by that time there were  
20      independent traders operating out of the Red River  
21      settlement as well, as well as individual American  
22      concerns that were somewhat smaller than the old  
23      American fur company had been.

24                      In looking at the stated reports of the  
25      Hudson's Bay Company officials after 1821, it is

1 difficult to find a year where they do not complain of  
2 competition. You see, to them, competition or its  
3 absence was extremely important in that they could  
4 impose a certain standard of trade on the Ojibway.

5 If, however, they had to compete for the  
6 furs and other products that the Ojibways were having  
7 on the market, their prices were substantially higher.

8 So the concerns both the Hudson's Bay  
9 Company after 1821 and the companies previous to 1821  
10 had very carefully monitored the activities of the  
11 other companies and would occasionally attempt to deny  
12 them access to particular resources that were needed  
13 for their own support. These resources were primarily  
14 the country produce sold by the Ojibway or the canoes  
15 sold by the Ojibway to these firms.

16 So, for example, the Northwest Company  
17 which had an inland trading route was extremely  
18 dependent upon the ability to purchase canoes inland  
19 from Lake Superior where they were using much larger  
20 canoes to be able to get to their fur depots much  
21 further inland on the Athabaska Rivers and up the  
22 Saskatchewan Rivers.

23 One of the places they purchased that  
24 canoe in a large way was the Rainy Lake area.

25 Q. What was the degree of participation



1 of the Ojibways in this fur trade?

2 Was is total participation in a sense of  
3 perhaps some kind of dependency or co-dependency or  
4 what?

5 A. Well, it's always to look at the  
6 situation at various times. One could say that there  
7 was a co-dependency to the extent that the Ojibways did  
8 require certain articles that only the fur companies  
9 could produce.

10 However, they were also well able to do  
11 without those articles. Thus, for example, the  
12 companies could offer steal traps while the Ojibways  
13 could make traditional snares and could still, well  
14 after the period of fur trade competition, thus when  
15 the anthropologists came into the region they had no  
16 difficulty getting information about the traditional  
17 ways of hunting animals.

18 In northern Ontario, ethnohistorians have  
19 asserted that the decline of competition led the  
20 Indians to become much more dependent upon the Hudson's  
21 Bay Company market and the food stuffs imported by the  
22 Hudson's Bay Company.

23 In contrast, in the Treaty 3 area, when  
24 we look at the relationships between the Ojibway and  
25 the Hudson's Bay Company, we see that there is much

1 less of that sort of dependence recorded in the  
2 literature. Some government explorers, for example,  
3 when they were passing through the regions in the 1850s  
4 specifically said that these Indians are not dependent  
5 upon the Hudson's Bay Company because of their  
6 abundance of sturgeon and wild rice.

7 Q. You referred a moment ago to some  
8 ethnohistorians commenting about northern Ontario, but  
9 then you said in contrast in the Treaty 3 area there is  
10 evidence that there was not this dependency.

11 With reference to the map can you give us  
12 an idea of what territories you are referring to?

13 A. What we are talking about basically  
14 is the Lac la Pluie District which is the old name for  
15 Rainy Lake and that was a Hudson's Bay Company district  
16 that we are most concerned about. It took in most of  
17 what is Treaty 3.

18 The areas where other ethnohistorians  
19 have talked about dependency to a much greater extent  
20 than we could find in Treaty 3 is the Lake St. Joseph  
21 area around Osnaburgh and, to a certain extent, the  
22 area around Lac Seul and the Severn River and the rest  
23 of the Albany Rivers.

24 Q. Do I understand your evidence that  
25 this would have to do with the abundance of other

1 source of things like food in the territory?

2 A. Yes.

3 MR. HOLZKAMM: A. Don, if I could add to  
4 that. In instances during the 19th century, the early  
5 half -- the first half of the 19th century the Hudson's  
6 Bay Company attempted to impose harvesting regimes for  
7 beaver upon Indians with...

8 They wanted to restrict harvesting of  
9 beaver to periods when the fur was prime, they wanted  
10 to dictate the numbers of beavers that would be  
11 harvested as opposed to allowing the Indians to decide  
12 what they would harvest as well as when they would be  
13 harvested.

14 The Ojibway in the Treaty No. 3 areas  
15 sometimes harvested beaver for food when they were  
16 travelling, not necessarily when the furs were at their  
17 prime. So there was a difference between the  
18 Hudson's Bay company over that.

19 They were successful in other areas.  
20 They were never able to impose this harvesting regime  
21 upon the Ojibway in the Treaty No. 3 area because of  
22 competition and the abundance of resources. That's  
23 covered in an article by Arthur Wright.

24 Q. You have mentioned, Mr. Waisberg,  
25 examples -- or perhaps not examples, but you have

1 mentioned that there were sales of things like canoes  
2 to the fur trading companies. Are there other products  
3 that were sold?

4 MR. WAISBERG: A. Also the constituent  
5 elements of canoes; the rolls of bark which we saw in  
6 the Linde slides.

7 When you look at some of the Hudson's Bay  
8 Company fur returns and account books you can see  
9 specific references in those to the export of birch and  
10 watap to other Hudson's Bay Company areas as well as  
11 food; things like rice.

12 Q. In the time up to the Treaty, let's  
13 use 1873 as the cut-off, what other forest products  
14 were sold by Ojibways to white people?

15 A. Very close to the time of the Treaty,  
16 when there was a government supported route called the  
17 Red River Road going from Lake Superior into the  
18 prairies, the Ojibways sold cord wood to the  
19 contractors who maintained that road. This would have  
20 been after 1868.

21 Q. When you say sold, does that include  
22 the harvesting of the logs as well as the marketing?

23 A. The harvesting and the marketing.  
24 Some of the sources seem to indicate it was done as  
25 wage labour, other of the sources seem to indicate it

1 was cut and sold as a market produce.

2 Q. And for what uses did the white  
3 people -- or what use did the white people have for  
4 this cord wood.

5 A. The cord wood was basically employed  
6 to power steam tugs which were basically boats with  
7 small boilers on them which would tow barges and other  
8 canoes through some of the larger lakes on the road.

9 When we call it the Dawson Road we really  
10 mean a series of lakes, rivers and portages with a road  
11 at either end from what's now Thunder Bay inland to the  
12 headwaters of the Seine River, and then on the other  
13 hand from Winnipeg inland to Northwest Angle.

14 Maybe I could just go to the map. So the  
15 Dawson Road went from Lake Superior to Winnipeg, which  
16 is just off the map, it was a series of portages and  
17 lakes and rivers. On the lakes and rivers there would  
18 be assistance to canoes and to barges.

19 So, therefore, the persons who ran this  
20 for the government, which was the Department of Public  
21 Works, would purchase this cord wood to feed their  
22 small steam barges.

23 Q. Was this cash or a cord wood type of  
24 transaction?

25 A. It was mostly goods at the time,



1 although there is no specific information as to the  
2 quantification. They are simply references that they  
3 did purchase it. We aren't entirely sure as to whether  
4 it was done entirely in goods or whether there was some  
5 coin involved.

6 MR. HOLZKAMM: A. Leo, in Dawson's 1871  
7 report to the Department of Public Works, he states  
8 that -- referring to the Ojibway:

9 "At their own desire they were paid for  
10 their work in provisions and in this  
11 shape as a general rule all their  
12 earnings were sent to their families."

13 So it was to a large extent by their  
14 desire that they were paid in goods, provisions in the  
15 same sense.

16 Q. Now, when the Dawson Road opened up,  
17 what happened to the trade whereby the Ojibways were  
18 selling food and other goods derived from the forest to  
19 the fur trade companies.

20 MR. WAISBERG: A. The purchase of  
21 country produced by the fur trade companies appears to  
22 have fallen off towards the later period of time.

23 Q. What would be reason for that?

24 A. The settlement in the Red River,  
25 which did not exist prior to 1816, was fully

1 functioning and producing supplies of flour, for  
2 example.

3 Q. How dependent was the fur trade  
4 before that, before the establishment of the settlement  
5 at Red River and before the Dawson Road construction?  
6 How dependent was the fur trade on these products that  
7 were purchased from Ojibways?

8 A. There are statements from fur traders  
9 that they really did not know how they could have  
10 existed without the food provided by the Ojibway  
11 through sales.

12 For example, rice in particular, which is  
13 easily transportable, which is basically not  
14 perishable, was a very important food item and the  
15 Northwest Company in particular traded large quantities  
16 of it.

17 Other items that were purchased were  
18 maple sugar to season the rice and also glossed in with  
19 maple sugar would be the other sorts of sugars that the  
20 Ojibway produced from ash leaf maple and from birch.

21 Q. Were there any other types of food?  
22 I am recalling when you talked about sturgeon there was  
23 the sale of preserved sturgeon.

24 A. There was the sale of dried sturgeon  
25 flesh, sturgeon oil and apparently a variety of penicin

1 made by mixing a sort of sausage of parts of the dried  
2 flesh with the oil, repacking it into the sturgeon skin  
3 as a bag and then sealing it with a glue so that it was  
4 impermeable to the air.

5 This would be somewhat similar to the  
6 penicin made from bison on the Prairies which was also  
7 an important item to the fur traders.

8 You have to remember that in those days  
9 all transport was basically done by boat and by hand.  
10 Your boat would be carrying you and you would have to  
11 paddle it or carry it over the portages. It took  
12 immense amounts of time to get anywhere, and all of the  
13 men who were bringing your goods into trade and taking  
14 out your furs had to be fed.

15 So the produce that was available locally  
16 was extremely important to the fur trade concerns in  
17 that they didn't have to import it, in the case of the  
18 Hudson's Bay Company, from England or in the case of  
19 Northwest and other companies out of Montreal from  
20 Montreal.

21 Q. Did the white people who were here at  
22 these trading posts and whatever, did they go out and  
23 get or grow their own food?

24 A. The trading post did attempt to set  
25 up gardens relatively constantly. These were usually

1       seen to be not very productive. Part of the problem  
2       always was their lack of manpower to look after the  
3       gardens in that they had a finite number of employees  
4       who were usually busy in the summer when you had to  
5       look after the gardens. They would be taking the furs  
6       out or bringing in the goods for next winter sale.

7               So many of the Ojibway were catering to  
8       that market by selling them sturgeon, rice and other  
9       goods, country produce and corn later on.

10              Q. But you have said that with the  
11       advent of the Red River settlement and the Dawson Road  
12       that this trade declined; is that correct?

13              A. There is less references in the  
14       account books to the export of such country produce.

15              Q. And at that time what did the  
16       Ojibways begin to turn to if one part of their trading  
17       economy declined? Did something else replace it?

18              MR. HOLZKAMM: A. Don, one point I would  
19       like to make is that there is one aspect of the country  
20       produce sales that appears to have continued throughout  
21       the 19th century after trading and that was the sales  
22       of canoes. Ready-made canoes found a market pretty  
23       much throughout the 19th century and even into the 20th  
24       century.

25              MR. WAISBERG: A. It is referred to

1 after the Treaty quite extensively.

2 MR. HOLZKAMM: A. That remained an  
3 important market.

4 MR. WAISBERG: A. But not for the fur  
5 trade companies necessarily.

6 Q. Maybe my question should be this,  
7 maybe we would be clearer: Did the Ojibway economy  
8 adapt to changes in market demand for forest products  
9 over time, or was it just a static thing that existed  
10 at one point in time and never changed and maybe was  
11 never seen again?

12 A. Well, no, the Ojibway economy was  
13 definitely not static from the time of contact on. You  
14 can see many changes in it beginning with the fur  
15 trade. So when the fur traders were interested in  
16 purchasing furs after 1775 the Ojibways were marketing  
17 furs to the company.

18 At the same time, these fur trade  
19 companies were at the beginning extremely dependent  
20 upon Ojibway country produce. So the Ojibways were not  
21 only selling them their rice and their fish, but they  
22 also began to develop agriculture in large part of the  
23 beginning to sell to the fur trade companies.

24 MR. HOLZKAMM: A. I may be jumping ahead  
25 and anticipating some of your questions, but this



1       agriculture was seen as important by the Ojibway and  
2       they continued to - at least for the years after Treaty  
3       No. 3 was signed - they saw it as a means of adapting  
4       to white settlement.

5               New markets for their produce and the  
6       lumber camps and government surveyors and others, they  
7       were seeing a market opening up that they could adapt  
8       to and put to their own uses, their own benefit.

9               MR. WAISBERG: A. So although it appears  
10       that the sales of their corn were not as large after,  
11       let's say, 1850 they were still growing it. According  
12       to some explores and the records left by the early  
13       surveyors, there were a tremendous number of Ojibway  
14       gardens throughout the region.

15              However, it appeared to be mostly  
16       oriented towards their own subsistence at that time as  
17       opposed to sales to the fur companies.

18              During the 19th century, the population  
19       of the region, the Ojibway population of the region  
20       expanded remarkably.

21              Q. Is there evidence in historical  
22       records as to why the population expanded at that time,  
23       or do you have an opinion as to why the Ojibway  
24       population expanded during the 19 th century?

25              A. Well, there were new sources of food

1 available through this subsistence culture. In the  
2 earlier period there were some migrations back east  
3 from the Red River Valley as the Red River settlement  
4 began to take up more of the land base there.

5 Q. When the Red River settlement began,  
6 what was the main occupation of the settlers?

7 A. Farmers.

8 Q. Is that different from subsistence  
9 agriculture?

10 A. No, their agriculture was mostly  
11 subsistence at that time. Their problem in the Red  
12 River, although I am not an expert on the Red River  
13 economy, my understanding of the Red River economy was  
14 that their sales were mostly to the Hudson's Bay  
15 Company, a single market and that, therefore, their  
16 prices were low.

17 MR. HOLZKAMM: A. There were a few  
18 instances somewhat earlier in the period when the  
19 settlers first arrived where they travelled through the  
20 Treaty No. 3 area and inadvertently began competing  
21 with the Hudson's Bay Company traders themselves and at  
22 least temporarily inflated prices quite widely at some  
23 of the garden islands.

24 And inadvertently, again, competing with  
25 Hudson Bay Company traders themselves at least

1 temporarily drove up inflated prices quite wildly at  
2 some of the garden islands, Selkirk.

3 Q. During this time that we're referring  
4 to; that is, the time when the Red River settlement is  
5 appearing but before the Treaty, are there many white  
6 people in the Treaty 3 area?

7 MR. WAISBERG: A. There are a number of  
8 people, at the most important post which is Lac la  
9 Pluie or, as it's now called, Fort Frances, typically  
10 you have the chief factor and his family and a trader  
11 and some clerks, then you would have other employees  
12 hired more or less on a permanent basis, and then you  
13 would have Indian labourers. So occasionally there  
14 could be as many as several dozen people at the post.

15 Q. And how many of these posts would  
16 there be in the Treaty 3 area?

17 A. Fort Frances was the largest and the  
18 major post, the centre of the Lac la Pluie District.

19 Q. What does this mean in terms of  
20 numbers, if you can, the total non-Indian population in  
21 the Treaty 3 area in the period immediately before the  
22 Treaty, could you tell us anything about that?

23 A. I don't think I've ever quantified it  
24 precisely. One could add up in any particular year  
25 from the personnel records of the company the number of

1 personnel at places like Fort Frances, which was the  
2 major post and the outposts that were kept in various  
3 years.

4 For example, Basswood Lake out in the  
5 east of Rainy Lake, or at Rat Portage, which is now  
6 Kenora, or at other smaller outposts like Hungry Hall  
7 or Whitedog.

8 Q. Do you think it would be more or less  
9 than a hundred?

10 A. Less than a hundred.

11 Q. Were there any significant number of  
12 farmers, settlers in that time?

13 A. No.

14 Q. Now, I'm trying to deal with this  
15 period of time just before the Treaty. What was the  
16 relationship between this part of the country and what  
17 was then called Canada at that time, and we are just  
18 around Confederation; am I correct?

19 A. Yes. This was part of the Hudson's  
20 Bay Company Territories, a part of British North  
21 America but not part of Canada.

22 Q. And what did Canada do that had  
23 anything to do with this territory?

24 A. The Hudson's Bay Company basically  
25 surrendered its charter and the imperial government

1 transferred that territory to Canada in 1870.

2 Q. And Canada --

3 A. They were supposed to have  
4 transferred it in 1869 but the first Riel Rebellion  
5 broke out.

6 Q. So what did the governments -- or the  
7 Government of Canada do at that time that has bearing  
8 on this territory?

9 A. The government was extremely  
10 interested in securing communications from basically  
11 its own western outpost of what is now Thunder Bay to  
12 the Prairies, so it first built this Dawson Road, a  
13 series of portages and steam tugs, and in terms of  
14 attempting to settle the Rebellion, it shifted an  
15 expedition of troops overland, about a thousand  
16 soldiers.

17 Q. Was that before or after building the  
18 Dawson Road?

19 A. That was ostensibly after the  
20 building of the Dawson Road unless you recall that the  
21 Dawson Road as a series of portages and steam tugs  
22 needed constant upkeep, and that there were numerous  
23 complaints from the soldiers of the expedition about  
24 the condition of the road.

25 Q. Okay. Actually I want to talk about



1 the period before the building of the Dawson Road.  
2 What communication was there between what was then  
3 called Canada, the southern part of Ontario and Quebec,  
4 and this part of the country?

5 A. This part of the country or the Red  
6 River settlement. The government was most concerned  
7 about the one centre of what it saw as civilization in  
8 the west which was the Red River settlement.

9 To get there, the most convenient way was  
10 to take a railroad to the United States then steamer or  
11 cart from what is now Minnesota down what is now the  
12 Red River to Fort Gary, Winnipeg.

13 So there was no Canadian route at  
14 Confederation through the region.

15 MR. HOLTZKAMM: A. Other than the  
16 traditional--

17 MR. WAISBERG: A. --Other than the  
18 traditional fur trade route.

19 MR. HOLTZKAMM: A. Two of them, the old  
20 route right along the international border from Grand  
21 Portage, and the other one from Thunder Bay following  
22 the more northerly route through Dog Lake and the  
23 northern part of what's now the Quetico Park.

24 MR. WAISBERG: A. So Canada had just  
25 acquired this immense territory in the west, the

1 Prairies, and the area north of it and had no  
2 communication with it, which is the genesis of the  
3 Dawson route.

4 Q. And so what did Canada do?

5 A. Canada attempted by the construction  
6 of portages and the placement of steam barges and the  
7 construction of roads at either end to facilitate  
8 overland transport from the Lakehead to the Prairies  
9 through this region.

10 Q. And what dealings did they have with  
11 the Ojibways who were then living in the territory  
12 we're talking were?

13 A. The Ojibways had been asserting  
14 sovereignty to the various government exploring parties  
15 that had first begun to look at the western Prairies.  
16 I just mentioned the transfer of the Hudson's Bay  
17 Company charter to the imperial government and from  
18 then to Canada.

19 Approximately 10 years before, in 1857,  
20 two expeditions had gone out from what is now the  
21 Lakehead through to the west, one was an  
22 imperial-funded expedition called the Palliser  
23 Expedition and the other was a Canadian expedition from  
24 the Province of Ontario -- of Canada called the Hind-  
25 Dawson Expedition.

1 Q. What were they supposed to do, what  
2 was their assignment?

3 A. They were supposed to explore the  
4 potential for settlement, for economic development the  
5 resources of the region with a view towards having that  
6 part of British North America assessed in terms of  
7 whether or not it should be part of Canada.

8 Q. You mentioned two expeditions. What  
9 were their dealings with the Indians in the Treaty 3  
10 area?

11 A. The Palliser Expedition arrived at  
12 Fort Frances I believe in --

13 MR. HOLTZKAMM: A. I will see if there's  
14 a date here in our database.

15 MR. WAISBERG: A. It was in 1857. It  
16 held a meeting with a Grand Council. That Grand  
17 Council refused permission to the Expedition to do  
18 certain things. These things were to take astronomical  
19 observations, to collect rocks, or to collect specimens  
20 of plants.

21 Q. These were the things that were  
22 refused?

23 A. That's right. And in terms of how  
24 the --

25 MR. HOLTZKAMM: A. The exact quote

1 isn't...

2 MR. WAISBERG: A. If I recall the quote,  
3 the person recording this stated:

4 "The Chief gave us quite a holiday."

5 MR. HOLTZKAMM: A. Yes.

6 Q. What did that mean?

7 MR. WAISBERG: A. That the Chief did  
8 not wish the scientific and information gathering party  
9 to gather information about the Ojibway territory.

10 Q. So some of the people in the  
11 expedition didn't have work to do because they have  
12 been told that they could not do it; is that what the  
13 holiday refers to?

14 A. That's correct.

15 Q. And what actually happened, did they  
16 proceed with their expedition?

17 A. There was much more to the conference  
18 than that, of course. Basically this expedition, which  
19 was a small number of people surrounded by many heavily  
20 armed Indians acceded to the wishes of the Council.

21 At that point one of the American Indians  
22 who was visiting Fort Frances at the time suggested to  
23 the Chief who was negotiating with Palliser that he get  
24 it in writing. The Chief said: Oh, it's not  
25 necessary, no one who has ever come from the Great

1 Queen has lied.

2 The expedition passed on its way to the  
3 area that it saw as the prime -- its prime concern  
4 which was the Prairies.

5 Q. And that is the expedition that we  
6 sometimes hear about if we read Canadian history as  
7 being the one that went across the Prairies and  
8 reported on the land?

9 A. Yes, and if you have ever lived out  
10 west you may have heard mention of the Palliser  
11 Triangle that area of Saskatchewan and Alberta where  
12 it's too dry to do much wheat farming, that was named  
13 after that Captain Palliser.

14 MADAM CHAIR: Excuse me. Mr. Colborne,  
15 are you ready for the afternoon break?

16 MR. COLBORNE: Yes, this will be fine.

17 MR. MR. HOLTZKAMM: Mr. Colborne, I've  
18 just located the specific quote from the permission the  
19 Chief -- or the Chief's failure or refusal to give them  
20 permission to operate.

21 "The Chief: After sitting two and a  
22 quarter hours in a broiling sun, we  
23 parted good friends. The chief  
24 requesting that Dr. H. take no stones out  
25 of his country. Mr. Bourgois collect no



1 botanical specimens and I to take no  
2 astronomical observations. In fact, the  
3 Chief gave us a holiday."

4 MR. COLBORNE: Thank you.

5 MADAM CHAIR: Thank you. We will be  
6 right back in 15 minutes.

7 ---Recess taken at 2:35 p.m.

8 ---On resuming at 2:50 p.m.

9 MADAM CHAIR: Please continue, Mr.  
10 Colborne.

11 MR. COLBORNE: Q. Mr. Waisberg, you  
12 mentioned two expeditions and I think you've now told  
13 us about the Palliser Expedition. What was the other  
14 one?

15 MR. WAISBERG: A. The other one was the  
16 Hind-Dawson Expedition founded by the Canadian  
17 provincial government as it was then.

18 Q. You say the Canadian provincial  
19 government, so that puts it before Confederation?

20 A. Yes, 1857.

21 Q. And what was the interest of the  
22 Province of Canada in this part of the country at that  
23 time?

24 A. The interest was to see the resources  
25 that were available, whether or not settlement in terms

1 of white farming could be carried on on the Prairies  
2 and to settle certain outstanding questions as to the  
3 nature of the soil, the climate, the environment in the  
4 rest of British North America.

5 There was a view that eventually the  
6 Hudson's Bay Company would surrender its charter and  
7 that as part of British North America, Canada stood to  
8 gain this land.

9 Q. And so what did this expedition do?

10 A. The expedition was set up to explore  
11 both the area between the Lakehead and the Red River  
12 Valley and to also explore the Saskatchewan area and  
13 the Prairies.

14 Q. How big an expedition was this?

15 MR. HOLTZKAMM: A. It was fairly large  
16 as expeditions go. It probably didn't number more than  
17 maybe 30 people.

18 MR. WAISBERG: A. Including the canoe  
19 transporters.

20 MR. HOLTZKAMM: A. Canoe transporters,  
21 right.

22 Q. And when they were travelling through  
23 the Treaty 3 territory, how did they travel, by what  
24 mode of transportation?

25 MR. WAISBERG: A. By canoe and portage.

1 Q. What route did they follow?

2 A. They followed the old fur trade route  
3 through the lakes and rivers.

4 Q. And what were their dealings with the  
5 Indians?

6 A. They also met with a Grand Council.  
7 In this case they received basically the same message--

8 MR. HOLTZKAMM: A. As the Palliser  
9 Expedition.

10 MR. WAISBERG: A. --as the Palliser  
11 Expedition. They proceeded further along the fur trade  
12 route which was down the Rainy River from what is now  
13 Fort Frances and from Lake of the Woods to the Winnipeg  
14 River, and the fur trade route continued down the  
15 Winnipeg River to Lake Winnipeg, that was the way in  
16 which fur traders usually travelled.

17 This expedition camped for an evening on  
18 a garden island, an Ojibway garden island in Lake of  
19 the Woods. While camping they noticed that there was a  
20 field of Indian corn and they cut some down.

21 Very shortly afterwards they were visited  
22 by a delegation of very large Indians who requested  
23 their presence at a Council. The description  
24 emphasized the ferocious aspect and --

25 MR. HOLTZKAMM: A. And large size.

1 MR. WAISBERG: A. --large size of the  
2 visitors and dealt to some extent with the Ojibway  
3 participation in warfare with the Sioux at this time  
4 which was still ongoing.

5 Just as a brief footnote to that, there  
6 were military expeditions from this area sent out by  
7 the Ojibway to fight with the Dakota on the Prairies at  
8 the time, so there was still a longstanding history of  
9 warfare between the Ojibway and the Dakota who are also  
10 called the Sioux.

11 MR. HOLTZKAMM: A. And in the case --  
12 the Sioux live further south in what's now Minnesota  
13 and North Dakota that they were fighting with and there  
14 was a territorial aspect, the Minnesota -- parts of  
15 Minnesota and North Dakota were hotly contested between  
16 the two groups as to who owned the lands.

17 MR. WAISBERG: A. And the Sioux  
18 occasionally would send raiding parties into this  
19 country as well as into Minnesota, and that is some  
20 of -- there are floral narratives dealing with, for  
21 example, why Sioux Narrows or Sioux Lookout bears those  
22 names. It relates to the presence of the Dakota  
23 raiding parties.

24 Q. What was the relationship between  
25 this expedition from the Province of Ontario and the

1 Ojibway people who they encountered in comparison with  
2 the relation between the Ojibway people and the Sioux,  
3 for instance, or the Dakota who you mentioned; was the  
4 expedition from the Province of Canada seen as a sort  
5 of an invading group or what, what was the  
6 relationship?

7 MR. HOLTZKAMM: A. If I were going to  
8 characterize it it would be not so much invaders so  
9 much as visitors who had been permitted to come onto  
10 Ojibway lands and who, by their behaviour, had  
11 trespassed the bounds of proper and expected behaviour.

12 Q. Let me just ask you a couple of  
13 questions about that. When and where was the  
14 permission given?

15 A. The Council was at Fort Frances,  
16 wasn't it?

17 MR. WAISBERG: A. Mm-hmm.

18 Q. That was the Council that was  
19 mentioned. And going beyond the bounds of the  
20 invitation, was that the taking of the corn?

21 MR. HOLTZKAMM: A. Yes.

22 MR. WAISBERG: A. Yes.

23 MR. HOLTZKAMM: A. The next day they had  
24 a Council with the Chief who - do you remember the  
25 words fairly precisely, Leo?



1 I believe he told them: Have you never  
2 seen corn before. Would you not be satisfied with  
3 noting it down, that is, describing it in your books.  
4 Did you have to cut it down. You cannot -- you cannot  
5 go this way.

6 Essentially he told them they were off  
7 the route that they had been told to take through  
8 Ojibway territory and to go by the route that had been  
9 assigned them.

10 MR. WAISBERG: A. "You cannot pass  
11 northwest through those paths. Did you  
12 never see corn before? Why did you not  
13 note it down in your book? Did your  
14 people want to see our corn? Would they  
15 not be satisfied with your noting it  
16 down?"

17 Q. Now, this was just before the Treaty,  
18 or at least a few years before the Treaty; is that  
19 correct?

20 A. 1857.

21 Q. I want to get up to the Treaty. What  
22 other relations or connections or communications were  
23 there between the Ojibways and the government or  
24 governments of Canada leading up to the Treaty  
25 negotiations?

1                   A. One of the leaders of this  
2 expedition, Simon James Dawson, was later chosen to  
3 head the construction of the Red River Road or the  
4 Dawson Road after Confederation. So 10 years after  
5 this incident, Mr. Dawson is back in the territory  
6 negotiating with the Chiefs for permission to establish  
7 a road through their country.

8                   Q. Did he obtain that permission?

9                   A. He obtained that permission.

10                  Q. Was there an exchange involved there;  
11 like, did he have to offer anything in order to obtain  
12 that permission?

13                  A. He offered both presents and  
14 employment.

15                  Q. What were the presents; do you know?

16                  A. Goods I believe.

17                  MR. HOLTZKAMM: A. I don't think they  
18 were ever defined.

19                  Q. And what was the employment?

20                  MR. WAISBERG: A. The employment was the  
21 cutting of cord wood and other manual labour.

22                  MR. HOLTZKAMM: A. And the clearing of  
23 trails.

24                  MR. WAISBERG: A. And the clearing of  
25 trails from the portages.

1 Q. And what permission was given, what  
2 was the extent of the permission given?

3 A. The extent of the permission was for  
4 that right-of-way.

5 Q. Who gave the permission?

6 A. The Grand Council.

7 Q. When you say the Grand Council, what  
8 does that mean from an ethnohistorical point of view?  
9 Can you describe that in layman's terms as we would use  
10 them today?

11 A. It's the assembly of the heads of the  
12 various bands that were inhabiting the region.

13 Q. How did they get together, because  
14 we're talking about a big region here?

15 A. They would very often meet during the  
16 sturgeon harvest on the Rainy River to discuss issues  
17 of national importance, of which this was one.

18 Q. The work that Dawson was in  
19 instructed to carry out, did it in fact get carried  
20 out?

21 A. The Dawson Road was built after a  
22 fashion and it did -- are you speaking of the Dawson  
23 Road?

24 Q. Yes.

25 A. Yes. It was constructed and it did

1       serve to facilitate the transport of British troops  
2       from Canada to the Red River in 1870.

3                   Q.   Who did the labouring work that was  
4       required or may have been required to complete that  
5       project?

6                   A.   They were both Canadian contractors  
7       and, of course, Ojibways providing some labour.

8                   Q.   Did any issues arise out of that  
9       project connected to the permission that was originally  
10      given; in other words, was there any dispute between  
11      the parties to the original permission as to what could  
12      be done, had been done, had been paid for, et cetera?

13                  A.   Dawson left a variety of records  
14      describing the Ojibway society and economy at the time  
15      both in his reports to the Department of Public Works  
16      and in a very lengthy memo to the Colonial Office in  
17      Britain.

18                  In one of them, dated July 18th, 1872,  
19      Dawson wrote:

20                       "The Indians live cheaply by fishing or  
21                       the chase and their general affairs are  
22                       regulated by a primitive sort of  
23                       government of their own. They claim not  
24                       only territorial but sovereign rights and  
25                       this has led to questions somewhat

1                   embarrassing but, so far, always amicably  
2                   arranged, at least for the time being."

3                   Q. And this amicably arranged, what does  
4                   that mean to you as a ethnohistorian; what do you think  
5                   he was talking about when he said that?

6                   A. To me this would imply that Dawson  
7                   had maintained cordial relations with the Chiefs  
8                   through whose territory he was passing northwest by the  
9                   exchanges of presents and by the offering of  
10                  employment.

11                  Q. Now, are we getting close to the  
12                  Treaty now in terms of the historical sequence?

13                  A. Yes.

14                  Q. Did any major project or activity  
15                  occur between the building of the Dawson Road and the  
16                  sequence that led immediately to the Treaty; are we  
17                  missing anything if I go to the Treaty now?

18                  A. Well, there's the Riel Rebellion and  
19                  establishment of the Province of Manitoba and  
20                  transference of the Prairies to Canada as a federal  
21                  territory.

22                  MR. HOLTZKAMM: A. As well, there were  
23                  two attempts to sign treaties preceding the actual  
24                  signing of 1873, or negotiations of Treaty No. 3 in  
25                  1873.



1 Q. Okay. Well, let's talk about that.

2 The Riel Rebellion was 1870; is that correct?

3 A. (nodding affirmatively)

4 Q. What were the other factors? You  
5 mentioned the transfer of territory from the Hudson's  
6 Bay Company to Canada?

7 A. It was from Great Britain.

8 MR. WAISBERG: A. From Great Britain to  
9 Canada.

10 Q. What year was that?

11 A. 1870.

12 Q. Okay. And was there another factor  
13 that you mentioned?

14 A. There were attempts to negotiate a  
15 Treaty with the Ojibway in what later became the Treaty  
16 3 region beginning in 1870.

17 Q. And what was the impetus that gave  
18 rise to those attempts?

19 A. The Riel Rebellion.

20 Q. And who acted on that impetus, who  
21 are we talking about on the side of the Canadian  
22 government or the English government?

23 A. Basically Mr. Dawson was one of the  
24 commissioners appointed after 1871 as the person with  
25 the most experience in having constructed Red River

1 Road and having entered into the relationships with the  
2 Chiefs, he was seen as extremely knowledgeable and a  
3 necessary party to the negotiations.

4 So there were negotiations conducted in  
5 1871 and 1872 by representatives of the Canadian  
6 government, but these negotiations failed.

7 Q. Who were the representatives, was  
8 that including Dawson?

9 A. Yes, and Waymus Simpson, and Robert  
10 Pither.

11 Q. And these were individuals sent by  
12 the government in Ottawa for the purpose of negotiating  
13 with the Ojibways; is that correct?

14 A. Correct. Canada was embarking upon  
15 its attempt to secure cessions of Indian title as it  
16 viewed it and was beginning a process of the numbered  
17 treaties in the west.

18 Their idea was to begin with the eastern  
19 most groups, which are the Treaty 3 Ojibway, but the  
20 negotiations of 1871 and '72 had failed, therefore, it  
21 began Treaties 1 and 2 in what is now Manitoba.

22 Q. Why did the negotiations in 1871  
23 fail?

24 A. Basically the commissioners did not  
25 offer enough to the Ojibway.

1 Q. What about in 1872, what happened?

2 A. The same occurrence, the  
3 commissioners did not offer enough, they did not settle  
4 outstanding questions and, again, there was the problem  
5 of annuities. The government was offering \$3 per  
6 person as an annuity and the Ojibways wished more.

7 MR. HOLTZKAMM: A. In addition, I'm  
8 reading from a letter of Treaty Commissioners to  
9 Secretary of State for the provinces dated 17 July,  
10 1872, on page 106 of the database:

11 "The Indians could not be induced to go  
12 into the discussion of the provisions  
13 made in the various articles of the  
14 Treaty and have advanced the most  
15 extravagant demands for roads made on  
16 their lands and wood taken for steamers  
17 and buildings."

18 MR. WAISBERG: A. That was after the  
19 failure of the 1872 negotiations. I believe in that  
20 letter they also recommended that troops be sent to the  
21 region.

22 Q. Okay. Now, that leads us to 1873,  
23 I've already mentioned that year, and there's no  
24 question that that's the year an agreement was reached.

25 So tell us what happened in 1873, this is

1 the third formal attempt to negotiate an agreement; is  
2 that right?

3 A. Yes. In 1873 the Lieutenant-Governor  
4 of Manitoba, Alexander Morris, and a retinue of about  
5 50 soldiers based in Red River and the  
6 Governor-General's staff and various other people,  
7 quite a large delegation, made arrangements to hold yet  
8 another series of negotiations, this time at Northwest  
9 Angle. The negotiations commenced about September the  
10 30th and ended on October the 3rd, 1873.

11 Q. Who represented the Indian side in  
12 those negotiations?

13 A. The Indians were there to the number  
14 of about 800 and most of the Chiefs were also present.  
15 They eventually signed Treaty.

16 There were a number of bands who were not  
17 there who were taken in by adhesion later. Among the  
18 individuals present were, for example, Powassan, he was  
19 one of the two main spokespersons for the Grand  
20 Council. The other spokesperson was a Chief from the  
21 Rainy River Band.

22 Q. Were these talks considered by both  
23 sides to be a continuation of what had been tried in  
24 1871 and 1872 or was this a clean slate?

25 A. It was definitely a continuation.

1 The first issue brought up by the Ojibways was, again,  
2 the question of payment for the wood taken.

3 Q. Explain that a little bit.

4 A. When Dawson had purchased wood for  
5 the Dawson Road previously, he had also had his own  
6 work crews also cutting wood and the Ojibways were  
7 asserting that they should be paid for that wood even  
8 though they themselves had not cut it.

9 Q. What was their theory? Why would  
10 they get paid for wood that somebody else had cut?

11 A. The theory was that it was their  
12 country and that was precisely the words they used in  
13 explanation of their claim.

14 Q. And did you say that was an  
15 outstanding issue that opened the talks in 1973; in  
16 other words, it was on the table right from the first  
17 moment?

18 A. Right from the first moment after the  
19 introductory speeches had been made; the usual  
20 courteous greetings.

21 MR. HOLZKAMM: A. Quoting from the  
22 shorthand reporter for the newspaper, The Manitoban, on  
23 page 53 of the report:

24 "The chief reiterated that he and his  
25 young men were determined not to go on



1 with the Treaty until the first question  
2 was disposed of."

3 The question over the wood.

4 Q. Now, I gather from what you have said  
5 in the last few minutes that this was not a case of a  
6 Treaty being stuck under somebody's nose and an "x"  
7 being put on it and being taken away; this was a  
8 genuine negotiation process that we are describing  
9 here?

10 MR. WAISBERG: A. Yes, it had been going  
11 on for some time. At the same time, one could say it  
12 was a genuine negotiation process. You should also see  
13 that it was done in a different way to the previous  
14 negotiations. This time there was the  
15 Lieutenant-Governor of the Northwest Territories there  
16 with troops.

17 Q. Who took care of the obvious fact  
18 that there was more than one language being spoken?  
19 How was this dealt with?

20 A. Morris' -- of course Manitoba at the  
21 time was bilingual under the way in which it entered  
22 Confederation and, in addition -- the bilingual being  
23 French and English.

24 In addition, the chiefs had retained a  
25 consultant to record the notes of the negotiations.

1 Q. How did the actual oral conversation  
2 take place? I am assuming that the principal  
3 representatives of the Crown did not speak Ojibway and  
4 the principal representatives of the Ojibways did not  
5 speak English. Is that a fair assumption?

6 A. That's a fair assumption.

7 Q. So how did the conversation --

8 A. Through translation.

9 Q. And it went on for how long? How  
10 many days did you say?

11 A. From September the 30th basically to  
12 October the 3rd.

13 Q. That would be four days?

14 A. (nodding affirmatively)

15 Q. You have already told us one of the  
16 issues or a main issue that was on the table at the  
17 outset.

18 Proceeding from the outset, how did the  
19 dynamics of the thing unfold? What was on the table  
20 and what was agreed and who said what according to the  
21 records as you have read it, and maybe you should first  
22 tell us what is the record?

23 A. The record is the reports printed in  
24 a newspaper called the Manitoban by an unidentified  
25 shorthand reporter. It is also Morris' official

1 -- report, plus there are a series of notes.

2                   One set of notes is called the Dawson  
3 notes, presumably taken by Mr. Dawson and deposited now  
4 in the public archives of Canada. There is another set  
5 of notes that Governor Morris attached to his official  
6 report when he submitted it to Ottawa with a copy being  
7 retained in Winnipeg.

8                   In addition, there was mention by the  
9 shorthand reporter that the Indians had retained an  
10 Ojibway to memorize the proceedings.

11                   Q. The written record that you have  
12 referred to, have you studied that?

13                   A. Yes.

14                   Q. Have you studied it closely?

15                   A. Yes.

16                   Q. Have you studied it for more purposes  
17 than this proceeding and the report that you have  
18 prepared here?

19                   A. For many purposes as it is quite  
20 relevant to many of the land claim reports that I have  
21 prepared.

22                   Q. Please, Mr. Waisberg, just tell us  
23 how it unfolded, how these negotiations unfolded?

24                   A. We've already mentioned that the  
25 controversy over the payment for the timber was one of

1 the first issues. The government position was that  
2 they had already paid for labour given by the Ojibway,  
3 but they were not willing to pay for wood that they had  
4 cut themselves. The Ojibway response was that this was  
5 the claim that they were advancing first and they  
6 wished it settled. They said that it was their country  
7 as the reason for wishing that it would be settled.

8                   However, Governor Morris asked the chiefs  
9 to allow him to speak of the things that the government  
10 was going to give to the Indians. So at that point the  
11 discussions moved on away from the woods question to  
12 the promises of what Morris was going to grant them.

13                   Q. I'm sorry to break in, but I just  
14 want to ask at this point, did it ever go back to the  
15 woods question?

16                   A. The woods question does not appear to  
17 have been settled from what we are able to see in the  
18 documents.

19                   Q. So after it was set aside, does it  
20 ever arise again in any of the sources as a matter that  
21 was discussed?

22                   A. No.

23                   MR. HOLZKAMM: A. Only much later in one  
24 of the elder's statements.

25                   MR. WAISBERG: A. From elder Netamequan,

1 not from the documents at the time of the Treaty.

2 Q. So there is something later in time  
3 referring to the Treaty, but there is nothing in the  
4 documents created right then and there that show any  
5 further discussions of the timber question?

6 A. No.

7 Q. What happened after that?

8 A. Governor Morris had had an interview  
9 on October the 1st with one of the chiefs and this  
10 chief said that he was very interested in entering into  
11 the Treaty. In previous years, the Grand Council had  
12 been able to display complete unanimity in refusing the  
13 terms that they did not like.

14 In this case, however, Morris was  
15 determined to get a Treaty and he was prepared to deal  
16 independently with those bands who wished the Treaty  
17 even if there were other bands which did not.

18 It was his assessment and the assessment  
19 of his party that certain of the bands along the line  
20 of route on the Rainy River, for example, were not  
21 interested in the things that the government could give  
22 them in terms of annuities and presents because they  
23 were already making money from the sale of cord wood,  
24 whereas other of the bands did not have this advantage.

25 MR. HOLZKAMM: A. They were more



1 interested in farming and provision through obtaining  
2 farm implements.

3 MR. WAISBERG: A. So the conversation  
4 went on further and at one point it looked as if the  
5 negotiations were at a complete stand-still, that the  
6 spokespersons for the Grand Council had refused to  
7 enter into the Treaty and the governor had refused to  
8 accede to additional demands that they had made for  
9 certain material items, a position paper that the  
10 Ojibway chiefs advanced at that time.

11 At that point one of the chiefs,  
12 Sakatcheway, of the English River/Lac Seul area spoke  
13 up and said: Basically I really want to enter into  
14 this Treaty. My band has little farms up and down the  
15 English River and we really wish to have the things  
16 that Governor is offering us; for example, education,  
17 seed, tools and other items of economic assistance.

18 At that point, the Indians held an  
19 all-night council by themselves at which  
20 representatives of the government party, Metis in  
21 particular, attended. The next day, the chiefs came  
22 forward to Governor Morris - this is the morning of the  
23 3rd now of October - and stated that they were willing  
24 to enter into the Treaty but wished to see his most  
25 liberal promises, what more could he offer.

1 Q. Then what happened?

2 A. Then there was a five-hour discussion  
3 apparently on various terms of the Treaty, including  
4 the minerals promise of on-reserve minerals would  
5 belong to the band, the promise that the Indians would  
6 be freed by the past for their hunting and rice  
7 harvest, the promise that Indians would not have to go  
8 to war in the Queen's government called them forward;  
9 various attempts to clarify exactly what was being  
10 entered into.

11 These discussions lasted some five hours,  
12 but of course nothing could be clarified at that time.  
13 One of the things that wasn't clarified was the exact  
14 location and position of the reserves.

15 Q. Why was that?

16 A. Basically, the government was unable,  
17 due to lack of geographic knowledge, to specifically  
18 state to its own satisfaction where these reserves  
19 would be.

20 So there was a joint undertaking at the  
21 time of Treaty that there would be another series of  
22 meetings to settle the reserve question and that's one  
23 of the items that was discussed and agreed to on that  
24 final day.

25 So that's basically the sequence of the

1 negotiations as reflected in the document that are  
2 available. The documents, of course, do not tell the  
3 whole story about everything. The shorthand reporter's  
4 notes, for example, says that the conversation took  
5 some five hours. If one reads the questions and  
6 answers which are laid out in that shorthand's  
7 reporters notes it certainly doesn't take you five  
8 hours.

9 So there are obviously other things going  
10 on at the time. These records are basically incomplete  
11 that we have from the various archives.

12 In another sense, Treaty No. 3, as  
13 published by Canada the document that the chief signed  
14 with an "x", doesn't include some of the things that  
15 were in the record of the discussions. For example,  
16 although mineral rights on reserves had been discussed  
17 on that final day, it did not appear in the document  
18 that's accepted by Canada as the Treaty that the chiefs  
19 eventually signed.

20 Q. What was the mechanical process of  
21 signing?

22 A. Basically each chief after the  
23 agreement -- one of Morris' clerks took an hour and  
24 wrote up this Treaty in terms of words very similar to  
25 the draft Treaty that had been taken in.

1 Q. Taken into the discussion?

2 A. Taken into the discussions by Morris  
3 with the changes that had been negotiated; additional  
4 agricultural implements, additional annuities and so  
5 on, but of course they left out various things.

6 One of the things they left out that  
7 became quite clear shortly after Treaty was the  
8 on-reserve minerals agreement.

9 Q. So the clerk made up a document and  
10 then what was done with this document?

11 A. And then according to the shorthand  
12 reporter the document was read in Ojibway to the  
13 assembled chiefs, they then came up and signed it by  
14 touching the pen.

15 Q. And what does one see if one looks at  
16 that document today? What does it look like?

17 A. One sees there are "x" marks.

18 Q. You mentioned the phrase 'free is by  
19 the past.' That is not a common expression these days.  
20 What does that mean?

21 A. Basically that means that the  
22 Indians, according to the record called the Nolin notes  
23 and also similar words are in the Paypom Treaty, would  
24 be permitted to keep their traditional way of making a  
25 living as they have previously.

1                   This was in line with the Canadian  
2 government policy which was to keep the Indians  
3 self-supporting. It was something that was reiterated  
4 in numerous treaties across Canada.

5                   In Treaties 1 and 2, for example, the  
6 similar words had been used to what we find in the  
7 government document of Treaty 3, that the Indians would  
8 be permitted to hunt, fish and trap as they had in the  
9 past, that the government wished them to maintain their  
10 old way of making a living.

11                   MR. MARTEL: Does that mean just  
12 subsistence living, though?

13                   I think that's at the heart of many of  
14 the problems, just for their own use or does that  
15 include such things as being able to continue to take  
16 something and sell it?

17                   For example, the argument whether you can  
18 take fish and sell it for commercial purposes as  
19 opposed to taking fish for simply sustaining your own  
20 family?

21                   MR. WAISBERG: Well, certainly 'free is  
22 by the past' would imply all of the range of activities  
23 that have been done in the past which included  
24 commercial sales.

25                   Even in the Treaty as published by Canada



1 which has that very legalistic variant of the promise,  
2 the hunting an fishing rights are not defined down to  
3 exclude commercial activities.

4 MR. MARTEL: But isn't that the heart of  
5 many of the problems? Maybe problems isn't the right  
6 word, many of the differences of opinion between the  
7 state and the Indian community, what that really  
8 translates into in terms of can you go out and fish and  
9 sell not under a commercial fishing licence but just  
10 anyway as they had done previously?

11 MR. WAISBERG: Well, the Treaty No. 3 as  
12 published by Canada simply states that:

13 "The said Indian shall have right to  
14 pursue share their advocations of hunting  
15 and fishing through the tract surrendered  
16 subject to regulations of the Dominion  
17 government."

18 Now, their advocations throughout fishing  
19 and hunting through the tract surrendered would have  
20 included the commercial sales because that was their  
21 business. They did sell fish.

22 MR. MARTEL: The acceptability today of  
23 the Indian people being able to, let's say, shoot moose  
24 and sell it on an open market, at the present time I  
25 don't think some people would find that very

1 acceptable, or am I misreading what I read in the media  
2 and so on?

3 MADAM CHAIR: Excuse me, Mr. Colborne.

4 You might want to jump in. I think Mr. Martel is  
5 taking the conversation about the Treaty and applying  
6 it to situations we find today and will you be  
7 addressing --

8 MR. COLBORNE: I think my Panel 6 is  
9 going to be the one that can answer that question. I  
10 would hate to ask these witnesses to be on the spot as  
11 to what the present Indian organization's positions may  
12 or may no be because --

13 MR. MARTEL: I am not asking for that.

14 MR. COLBORNE: They may not know anything  
15 more about that than the rest of us.

16 MR. MARTEL: My concern, Mr. Colborne, is  
17 the interpretation. They have read all of the  
18 documents that are available and I am just trying to  
19 get what their understanding is of the various  
20 documents that they have read.

21 I am not asking what the Indian people  
22 think at the present time. We will hear from them  
23 starting next week. I am just trying to get a handle  
24 on what the various documentation -- what the various  
25 interpretation of all that documentation is.

1 I mean, one only has to read what has  
2 gone on in the past 15, 20 years that I have been  
3 involved to know that that's right at the heart of many  
4 of the confrontations.

5 One just reads the newspaper today about  
6 why Wild has allowed hunting in the parks and one only  
7 has to read the sports columns, the various groups  
8 representing -- doing the writing. I think that's the  
9 greatest tragedy that ever happened for hunting and  
10 fishing, and I am just trying to get a handle on what  
11 they think was meant. We ultimately have to take that  
12 into consideration.

13 MR. COLBORNE: Very well. I have no  
14 problem with that at all. That does not conflict with  
15 what my Panel 6's evidence will be and I think these  
16 are witnesses that can answer those questions.

17 So I must have been misunderstanding your  
18 concern. These are the people who have qualified to  
19 interpret what the agreement made in 1973 in fact was.

20 MADAM CHAIR: Well, I think we have Mr.  
21 Waisberg's evidence; and that is, your interpretation  
22 is there are no restrictions on hunting and fishing as  
23 it is expressed in the Treaty 3 published by Canada  
24 other than the clause as subject to such regulations.

25 MR. WAISBERG: There is no restriction

1 from commercial sale in that clause and that this was  
2 the way it was understood by the Indians.

3 At risk of dealing with some of the later  
4 evidence, it was quite clear that Ojibways continued to  
5 sell fish after Treaty and also continued to sell game.  
6 In fact, that was one of their markets, the sale of  
7 game.

8 MR. COLBORNE: Q. Would it be fair to  
9 assume, though, that only in the non-Indian culture are  
10 there rules restricting the use of, for instance, fish  
11 or game that has been taken?

12 Is that a fair assumption or as an  
13 ethnohistorian can you tell us about restrictions  
14 within the Ojibway culture on over-use or inappropriate  
15 use of the fish and game that has been taken.

16 MR. HOLZKAMM: A. To get to that,  
17 Dawson, for example, describes councils of Ojibway  
18 allocating wild rice. It was traditionally one of the  
19 roles of the elders to determine when wild rice was  
20 ready, when people should be allowed to harvest rice so  
21 that everyone would be able to get into the rice  
22 without damaging the crop prematurely and that everyone  
23 had equitable access to the resource.

24 Q. Dawson mentions that. That would put  
25 it in the 19th century. Is there anything in the 20th

1 century that follows from that?

2 A. From what elders have told me of  
3 their childhood from Manitou Rapids, that wild rice was  
4 allocated by the elders, that they were told this was  
5 the time to go ricing, you can't go before this day,  
6 now the rice is ready, it is time to go, people go  
7 ricing on particular beds.

8 Q. Did this stop at any time, this  
9 process that you were referring to?

10 A. The examples that I am most familiar  
11 with are from the Ojibway just south of the border that  
12 continued after World War II.

13 However, the function was gradually taken  
14 over by the Department of Natural Resources in  
15 Minnesota through its licensing and regulations. It  
16 has since been reclaimed again.

17 Q. What do you mean by 'it has since  
18 been reclaimed again'?

19 A. It is now being handled by the  
20 Indians themselves, not so much through the elders as  
21 through reservation research committees and  
22 conservation groups.

23 A point that we maybe should go back to  
24 in regard to the government's perception is the  
25 government was at pains to avoid or to make sure that



1 the Indians would be self-supporting,-that they would  
2 not become dependent upon the government for support,  
3 that they would be on their own.

4 Access to these resources appears to have  
5 been an element and their harvesting of those and it  
6 seems to have been an element of that self-support, it  
7 is seen as a way of the Indians being self-supporting.

8 MR. WAISBERG: A. The government was  
9 very concerned about expenditures on Indians and wished  
10 to keep them as low as possible.

11 It had two examples of high expenditures.  
12 One was the process going on in the United States at  
13 the time which was a military one which was incredibly  
14 expensive. The other was, as the buffalo failed  
15 further west in the Prairies, those buffalo hunting  
16 Indians had to be assisted at government expense which  
17 was extremely expensive. The government was very  
18 concerned with minimizing their expenditures on  
19 Indians.

20 MADAM CHAIR: Excuse me. Is there any of  
21 that in the Treaty documentation? Is that point of  
22 view expressed?

23 MR. WAISBERG: In the Treaty itself?

24 MADAM CHAIR: Yes.

25 MR. WAISBERG: No. As far as I know, it

1 was an element of government policy and has been dealt  
2 with in the secondary historical literature by such  
3 historians as Jean Freisen.

4 MR. COLBORNE: Q. You read a passage  
5 from the document that was signed at that time and is  
6 sometimes referred to as the Treaty and it contained a  
7 reference to the hunting and fishing right being  
8 subject to regulations that the federal government  
9 might make.

10 Is there anything in the documents  
11 created at the time of the Treaty, other than the one  
12 I've just mentioned, referring to that qualification or  
13 that provision?

14 MR. HOLZKAMM: A. Right at the time of  
15 the Treaty wild rice is essentially added to that in  
16 the Paypom document, wild rice is referred to, where it  
17 is not mentioned in the Treaty published by Canada.

18 Q. Perhaps you misunderstood the  
19 question. I'm referring to that passage in the  
20 document Treaty 3 that's published by Canada and  
21 circulated and called the Treaty, that passage which  
22 refers to regulations that the hunting and fishing  
23 right is or may be subject to regulations that the  
24 federal government would make.

25 Is there anything in the other documents

1 created at the time of the Treaty; that is, the Dawson  
2 notes, the shorthand reporter's notes, the Morris  
3 report and the other documents you referred to, that  
4 refer to that or explain it in any way?

5 MR. WAISBERG: A. No.

6 MR. HOLZKAMM: A. Well, it's a bit of a  
7 side issue but it relates to that, in that the access  
8 to these lands -- resources on these lands would be an  
9 issue and the Dawson notes and the Treaty contain a  
10 statement:

11 "It may be a long time before the other  
12 lands are wanted...", you know, those  
13 subject for settlement or subject to regulation:

14 "It may be a long time before the other  
15 lands are wanted and in the meantime you  
16 will be permitted to fish and hunt over  
17 them."

18 Q. What's your interpretation of what  
19 'wanted' means?

20 A. Required for settlement, for farming  
21 or other industrial or development activities.

22 MR. WAISBERG: A. Similar words were  
23 used in explanation of Treaty 1 and 2.

24 Q. Were these treaties made by the same  
25 people on the government side?

1                   A. The negotiations of 1817 and 1827  
2     were conducted by the same people, Waymus Simpson was  
3     the chief negotiator of '71 and '72 and he was one of  
4     the chief negotiators of Treaty 1 and 2.

5                   MR. HOLZKAMM: A. With regard to access,  
6     during the final day of negotiations one of the chiefs  
7     attempted to clarify 'rights of access', to quote from  
8     the shorthand reporter again:

9                   "We must have the privilege of travelling  
10     about the country where it is vacant."

11                  That is going around so we will have  
12     access to these resources.

13                  "The representative of the government  
14     responded: Of course, I told them so."  
15     Actually that's not a quote from the shorthand  
16     reporter, my mistake it is from Morris' 1971.

17                  Q. Okay. Is there any doubt that an  
18     agreement was made in 1873?

19                  MR. WAISBERG: A. No.

20                  Q. Was there a meeting of minds between  
21     the two sides as to what the terms of that agreement  
22     were?

23                  A. The primary aspects, there was  
24     apparently a meeting of minds on that.

25                  Q. And what would you call the primary

1 aspects?

2 A. The main aspects of the Ojibway  
3 economy that they wish to preserve, their ability to  
4 travel throughout the country and maintain their  
5 fishing and hunting.

6 Q. And what did the non-Indian side, the  
7 Canadian government or Crown side get in the agreement?

8 A. What did they get?

9 Q. Yes.

10 A. The way in which the Treaty 3  
11 document is published by Canada records the promise, it  
12 was that the Ojibways had ceded and released all of  
13 their aboriginal title and interest in their  
14 traditional territory.

15 Q. Was there a meeting of the mind on  
16 that concept?

17 A. That does not seem to be reflected in  
18 the other documents.

19 Q. What do you mean by that?

20 A. There is no mention that this was an  
21 item of discussion.

22 Q. Is there anything that happened  
23 following the Treaty that would cast light on what the  
24 actual agreement was, if there was no meeting of the  
25 minds on that particular topic?



1                   A. During the time that the -- during  
2                   the time at which the sturgeon fisheries were under  
3                   stress in 1890 when the non-Indian commercial companies  
4                   were beginning to operate in Lake of the Woods there  
5                   were numerous council meetings of the Ojibway chiefs at  
6                   which they expressed their shock and dismay at what was  
7                   occurring to government officials.

8                   Q. Was the Ojibway economy still  
9                   relatively in tact at that time?

10                  A. At that time it was somewhat in tact;  
11                  however, by 1890 we were also beginning to get the  
12                  first flooding caused by the construction of dams.

13                  So besides the flooding that was  
14                  occurring at that time, we were also having problems  
15                  with the supply of fish.

16                  Now, to relate back to your earlier  
17                  question regarding the understanding, one of the chiefs  
18                  who had been at the Treaty spoke at this 1890  
19                  conference where there were complaints about what was  
20                  happening to the sturgeon fishery and his words were:

21                  "When the Treaty was made with us at the  
22                  Northwest Angle we saw the lips of the  
23                  government moving but now they are closed  
24                  in silence and we do not know what is  
25                  done in the councils of our Mother the

1 Queen.

2 When we gave up our lands to the  
3 Queen we did not surrender our fish to  
4 her as the great spirit made them for our  
5 special use."

6 Now, this does not agree with the wording  
7 of a complete and utter cession of all rights and title  
8 and interest, the sorts of words that are in Treaty 3  
9 as published by Canada, and yet this was a chief who  
10 signed that Treaty.

11 Q. What was your interpretation or the  
12 interpretation of people in your field who have asked  
13 that question as to what the implications are of this  
14 apparent lack of understanding or lack of agreement?

15 A. The subject was just dealt with to a  
16 certain extent by Mr. John van West in an article  
17 entitled: Ojibway Fisheries, Commercial Fisheries  
18 Development and Fisheries Administration, An  
19 Examination of Conflicting Interest and the Collapse of  
20 the Sturgeon Fisheries of the Lake of Woods.

21 Q. Who was Mr. van West?

22 A. Mr. van West is employed by the  
23 Ontario Native Affairs Directorate which is an agency  
24 of the Ministry of Natural Resources.

25 Q. Do you know for sure what it is an

1 agency of? I think you're beyond your expertise here.

2 MR. COLBORNE: I think it's an agency or  
3 an emanation of the Ministry of Native Affairs. I  
4 can't give evidence, but the witness is obviously...

5 MADAM CHAIR: We have heard evidence in  
6 the past on various documentation from ONNAD and the  
7 history of its movement out of MNR into other places in  
8 government.

9 MR. COLBORNE: Thank you. I didn't think  
10 I was leading this witness into something which he  
11 isn't an expert in which is the structure of the  
12 Ontario government, I was trying to help him.

13 Q. Go ahead, Mr. Waisberg. What does  
14 Mr. van West say?

15 MR. WAISBERG: A. Well, if I could just  
16 quote from Mr. van West's Footnote 1 where he deals  
17 with:

18 "This study is based on a larger research  
19 study of Treaty 3 fisheries commissioned  
20 by the former Office of Indian Resource  
21 Policy, Ministry of Natural Resources."

22 But by the time he had finished it it was  
23 the Ontario Native Affairs Secretariat and now the  
24 Ontario Native Affairs Directorate, now ONNAS, which I  
25 believe again is within MNR.

1 Q. Now, what did he say, if anything?

2 MR. FREIDIN: Not that it means - I don't  
3 think it's very significant - but ONNAS is still  
4 separate from the Ministry of Natural Resources,  
5 although the Minister in charge of Native Affairs is  
6 also the Minister of Natural Resources.

7 MADAM CHAIR: Thank you for the  
8 clarification, Mr. Freidin.

9 MR. WAISBERG: Thank you.

10 MADAM CHAIR: Let us know where it is  
11 just before we publish our decision.

12 MR. FREIDIN: I may not be around.

13 MR. HOLZKAMM: Okay. To quote Mr. John  
14 van West, Ojibway Fisheries in the Native Studies  
15 Review Volume 6, No. 1, 1990 page 34:

16 "The Ojibway did not evidently  
17 surrender their collective proprietary  
18 rights to the fisheries when  
19 they signed Treaty No. 3 in 173. They  
20 had probably agreed to share their  
21 fisheries with traders and advancing  
22 settlers, thereby expanding to  
23 non-natives the demand of generalized  
24 reciprocity that was so fundamental to  
25 their hunting, gathering and

1 horticultural pursuits."

2 They did not surrender it.

3 Q. Are there others beside van West in  
4 the academic community who have commented upon the  
5 point that I have just been referring to; and, that is,  
6 an apparent lack of agreement or lack of meeting of the  
7 minds as to what was happening with the resources  
8 following the agreement of 1873; are there other  
9 scholars in other words who have commented on it and  
10 what do they say?

11 A. There are other scholars who have  
12 commented upon other treaties.

13 Q. Would any of that be helpful to us  
14 here?

15 A. In Treaties 1 and 2, for example,  
16 there is no right cited for hunting and fishing, yet  
17 there were definite promises made there that the  
18 Indians could keep their traditional way of living  
19 regarding hunting and fishing on the lands.

20 So it has been looked at by some  
21 scholars, such as the historian at the University of  
22 Manitoba History Department called Jean Friesen.

23 Q. How could it be that a person could  
24 say, as the chief you quoted from said, that there had  
25 been a dealing with land but not with resources?



1                   To our way of thinking, the two go  
2           together. Is there something in the Ojibway way of  
3           thinking that you know of as ethnohistorians that would  
4           account for this apparent incongruity perhaps?

5                   A. Well, there would seem to be a  
6           distinction between the land and the resources off the  
7           land or the resources that are contained on the land.

8                   Q. What is that distinction, if you  
9           know?

10                  A. That I believe elder Netamequan  
11           speaks to.

12                  MR. HOLZKAMM: A. And that he states  
13           that they did not sell the timber when Treaty was  
14           signed, that was reserved.

15                  Q. Where does he say that?

16                  A. In a letter dated 1927.

17                  Q. Was he around at the time of the  
18           Treaty?

19                  MADAM CHAIR: I believe that question was  
20           the subject of an interrogatory, Mr. Colborne.

21                  MR. COLBORNE: Yes, and so it's not  
22           necessary, witnesses, to look that up. It was the  
23           subject of an interrogatory.

24                  To keep the continuity here that the  
25           response that you supplied me with is that he became a

1 chief in the Treaty 3 band after the Treaty or -- now,  
2 I'm searching my memory. The interrogatory record will  
3 seek for itself.

4 Q. Now, just tell me, what did Chief  
5 Netamequan say in 1929?

6 MR. HOLZKAMM: A. 1927.

7 MR. WAISBERG: A. It's on page 201 of  
8 the database.

9 MR. HOLTZKAMM: A. It's in rather broken  
10 English. Oh, okay. And he states in part:

11 "...and you were not asking and gold mine  
12 not any timber not any muskeg not any  
13 water not anything about hunting not  
14 any thing for that you were told told us  
15 we suppose to owned still..."

16 So he appears to be definitely stating  
17 that they didn't give up those.

18 Q. Okay. So there was certainly  
19 ambiguity and lack of clarity. What would you say  
20 though about - and from the record again that you've  
21 studied - what did the Indians think in terms of their  
22 future use of the resources that they used to gain a  
23 living prior to the Treaty, what was going to happen  
24 with the things that we have mentioned, the rice, the  
25 fish, the game and so on?

1                   A. They supposed that they would  
2 continue to be able to utilize these things as they  
3 have in the past.

4                   Q. Subject to what, if anything?

5                   A. Subject, for one thing, to their loss  
6 of those rights on the land for use at particular  
7 times, that those could be -- well, as Jim Netamequan  
8 points out if these are needed they will come back  
9 to -- in his letter, if I can find the exact passage  
10 again:

11                   "...I wish you could let me have  
12 something so I can feeled we were told  
13 when first Treaty made time we Shake  
14 hands we Said that we never have any  
15 change and if it happens to be change we  
16 will talk over again Settled that up over  
17 again...", excuse me, I'm having trouble  
18 with my glasses slipping. Can I start over and read  
19 that?

20                   Q. Yes.

21                   A. "...when first Treaty made time we  
22 Shake hands we Said that we never have  
23 any change and if it happens to be change  
24 we will talk over again..."

25                   So they would bring it back for

1       rediscussion.

2                       MR. WAISBERG: A. One could also look at  
3       the record of Indian petitions that went in at the time  
4       of the decimation of the sturgeon resource.

5                       I have a quote of one 1892 petition, this  
6       possibly relates to the way in which Canada asserted  
7       jurisdiction over the fisheries of Lake of the Woods  
8       and through its regulations gave licences to non-Indian  
9       fishermen which led to the shortages of sturgeon that  
10      were being felled by 1892.

11                      So at an Ojibway Council of that year the  
12      Chiefs had their petition written by the Indian agent  
13      where it was then sent to Ottawa and is now in the  
14      records of the Department of Indian Affairs. These are  
15      the words:

16                      "There are also Canadians that have  
17                      licences from the government and we are  
18                      of the opinion that if no such licences  
19                      were granted it would be easier to put a  
20                      stop to the wholesale depleting of the  
21                      fish in the Lake of the Woods. This,  
22                      one of our main resources, is getting  
23                      more and more scarce and we can now  
24                      hardly catch enough to feed ourselves in  
25                      summer. Some strong measures should be

1 taken. Having kept faith with the  
2 department, it is only but fair that we  
3 should expect that they would keep it  
4 towards us. We have kept our part of the  
5 Treaty. Is it not fair that the  
6 government should not keep theirs?"  
7 To me this implies that the Ojibways  
8 believed that they would maintain their traditional  
9 fishing rights in the post-Treaty periods.

10 Q. Fishing was one of the ways they made  
11 a living?

12 A. Fishing was one of the ways they made  
13 a living.

14 Q. What other ways did the Indians  
15 perceive they would make a living after the Treaty?

16 A. Through intensification through their  
17 agricultural. One of the important aspects of the  
18 Treaty as an economic development document, and it's  
19 filled with various provisions to 19th century  
20 agriculture, plows, harrows, seeds, all sorts of things  
21 like that, hoes.

22 MR. HOLTZKAMM: A. In addition, the  
23 Chiefs were concerned, having had the Dawson line going  
24 through their territory that they had expended effort  
25 and resources on making improvements and they were



1 concerned that Department of Public Works would maybe  
2 engage in a project that would threaten these, for  
3 example, their gardens or their farms, and they wanted  
4 to be assured that they would receive some form of  
5 compensation should those be threatened by Public Works  
6 and they were told, yes, they would.

7 MADAM CHAIR: Excuse me. Could you  
8 explain something to me. In some of the reading that  
9 we did on your database there are various references  
10 throughout the database, beginning at least in 1820 I  
11 think, reference to episodes of winter famine in  
12 certain areas of Treaty 3.

13 MR. HOLTZKAMM: Correct.

14 MADAM CHAIR: And is that sort of a  
15 problem, something that was historically occurring and  
16 continued to occur, or was it in any way changed by  
17 increased agricultural activities -- ameliorated I  
18 mean.

19 MR. HOLTZKAMM: Okay. First of all, let  
20 me go back to the actual term, starvation as an  
21 ethnohistorian has a lot of connotations as it was used  
22 by European observers.

23 Mary Rogers Black has done an article on  
24 the semantics of the word starvation and it can mean a  
25 number of things in fur trade records.

1                   Starving can be seen as a diplomatic  
2       move, the claims that we are starving and suffering to  
3       establish a certain position vis-a-vis the fur traders,  
4       so it may be simply a bargaining ploy.

5                   Secondly, the fur trade tended to use  
6       starving in a very specific sense. Frequently when  
7       Indians were described as being starving it meant they  
8       had to switch to other economic activities that  
9       precluded trapping for furs, that they didn't have  
10      enough resources on hand to sustain them on trap lines  
11      when they were obtaining smaller furbearers that were  
12      not considered generally edible such as marten; I might  
13      be able to choke one down but I wouldn't want to live  
14      on them for a long period of time, so that they could  
15      not go out on their trap lines and obtain furs.

16                  The Indians were described as starving,  
17      they had to switch to other economic adaptations that  
18      could not include trapping. They might, for example,  
19      go to visit their relatives who had farms and share  
20      those resources to be hopefully returned in some  
21      other -- gesture to be returned at some other time.

22                  So starving does not always mean that  
23      people are at their extreme, that they're becoming weak  
24      from hunger or suffering, they may have simply had to  
25      switch to another economic adaptation.

1                   Now, it did happen at times, because in  
2   northern environments resources go through periodic  
3   cycles. The snow-shoed hares cycle is one of the most  
4   well-known. Other conditions can come together so that  
5   they could not obtain certain resources.

6                   The Rainy River might be extremely high  
7   during the sturgeon spawning run and murky so they  
8   could not obtain food. Wild rice might be wiped out in  
9   a flood for one particular year, come back the next  
10   year, but for a year they might be suffering. In some  
11   years, no matter how carefully the Ojibway predicted  
12   and dealt with the resources, some of these things came  
13   altogether.

14                  There were natural events outside of  
15   their control. 1849 is a good example when the water  
16   was high in the Rainy River and they could not capture  
17   sturgeon, wild rice had disappeared, the rabbit  
18   population cycle was at its low ebb, they were in that  
19   case suffering significantly and the fur trade accounts  
20   all describe this.

21                  Furthermore, there were other  
22   complications. They tried to go out into the Prairies  
23   and to the Red River to hunt buffalo and discovered  
24   that hunters from the Red River settlement, the Metis,  
25   had been there before them and buffalo were disturbed

1 and almost impossible to hunt.

2 Everything seemed to come together and  
3 conspire against them rather than they were suffering.  
4 Things like that did periodically happen.

5 So that your question, did this continue  
6 and become worse, they were attempting to adapt to a  
7 new economy, farming was becoming an important issue.  
8 Man-made problems contributed to their problems  
9 after -- or man-made difficulties contributed to their  
10 problems after Treaty, so that the building of the dam  
11 at Keewatin out of the Winnipeg River raised water and  
12 caused the flooding of farms, caused the destruction of  
13 wild rice and loss of hay meadows. That caused  
14 starvation for the Indian as well.

15 MADAM CHAIR: Thank you.

16 MR. HOLTZKAMM: And suffering.

17 MADAM CHAIR: Mr. Colborne, it's about 20  
18 after four. I don't know if your witnesses are getting  
19 tired or not. How much longer do you think you'll be  
20 in examining their evidence?

21 MR. COLBORNE: Two to three hours.

22 MADAM CHAIR: And how long will you be in  
23 cross-examination, Mr. Freidin?

24 MR. FREIDIN: I think at the moment I  
25 can't see it extending beyond two hours at the outside.

1 That's my guess.

2 MADAM CHAIR: Do you think, Mr. Colborne,  
3 that we will be able to finish the evidence of this  
4 panel tomorrow?

5 MR. COLBORNE: Yes. I have been told  
6 that the Industry is not cross-examining nor is the  
7 Ministry of the Environment.

8 MADAM CHAIR: That's what we understand.

9 MADAM CHAIR: Do you want to break for  
10 today and we will come back at nine tomorrow morning?

11 MR. COLBORNE: Certainly.

12 MADAM CHAIR: Is that all right with you?

13 MR. COLBORNE: It is.

14 MADAM CHAIR: That is what we will do  
15 then.

16 Thank you very much.

17 ---Whereupon the hearing was adjourned at 4:20 p.m.,  
18 to be reconvened on Friday, May 24th, 1991,  
commencing at 9:00 a.m.

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